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International Court of Justice

H2740 – 0001

THE INTERNATIONAL MILITARY TRIBUNAL

Geo. Mitchell

Office of
The General Secretary

13 March 1946

NOTICE TO BE POSTED ON BULLETIN BOARD IN DEFENDANTS' INFORMATION ROOM

The following order with respect to further proceedings on the charge against organizations and the applications of members thereof to be heard has been adopted by the Tribunal.

1. The Tribunal directs that Counsel for the Defendant Organizations shall be entitled to visit any Civilian Internment Camp, Prisoner of War Camp, Prison or Enclosure or other place where members of the Organizations are to be found in the four zones of occupation of Germany and from which applications under Article 9 of the Charter have been received, for the purpose of selecting witnesses to be brought to Nurnberg to give evidence on the criminal or non-criminal character of the accused Organizations.

Exception authorized

2. An Officer shall be appointed to accompany Defense Counsel to Camps or other places whose duty shall be to ensure that Defense Counsel are afforded access to members of accused Organizations interned or at liberty and that subject to security regulations they shall receive facilities for consultation with any persons they may desire to select as witnesses and he shall render every assistance that may permit a free and unfettered selection. In addition the said officer shall have power to control and limit as directed by the Tribunal the number of witnesses to be brought to Nurnberg.

3. In the selection of such witnesses the Tribunal directs that Counsel for the Defense shall have regard only to the choice of persons possessing knowledge of matters relevant to the criminal or non-criminal character of the Organizations as provided in paragraph 6 hereunder.

4. When these persons have been brought to Nurnberg Counsel shall have free access to them for the purpose of ascertaining which if any of them Counsel desire to call as witnesses before the Tribunal and which if any of them they desire to examine before a Commissioner. At such examination before a Commissioner Counsel for the Defense and for the Prosecution shall have the usual rights of examination, cross-examination, and re-examination and evidence taken shall be recorded by the Commissioner. The Commissioner shall be Lt. Colonel Neave and he shall have power to hear evidence in Nurnberg or in exceptional cases elsewhere at his discretion and shall recommend to the Tribunal suitable persons to be appointed Assistant Commissioners if the necessity should arise.

This Order shall be carried out under the direction of Lt. Colonel A. M. S. Neave, in collaboration with the Office of the General Secretary and subject to necessary security regulations.

5. After such selection of oral witnesses and examination of other persons Counsel may apply to the Tribunal for leave to call the selected oral witnesses and to offer the evidence of the persons examined provided that their evidence is relevant and not cumulative. Counsel shall also be entitled to apply to the Tribunal to send interrogatories in appropriate cases.

6 (a) In this proceeding evidence is considered to be relevant which bears upon the following issues:

(1) Whether the Organization or group charged consisted substantially of an aggregation of persons sharing a general common purpose to engage in activity defined as criminal under Article 6 of the Charter, and, in this connection, what the aims, tasks, activities, methods, structure and component parts of the Organization were;

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(2) Whether membership in the Organization or group was generally voluntary or the result of physical compulsion or legal decree;

(3) Whether the purposes or activities of the Organization or group, defined as criminal under Article 6 of the Charter, were open and notorious or otherwise generally known to the members, so that its membership in general may justly be held to have had knowledge of them at some relevant time.

(b) Evidence is not considered to be relevant in this proceeding which bears only on whether a particular individual was a voluntary or involuntary member or whether he was or was not ignorant of criminal purpose and innocent of criminal activity.

(c) While the Tribunal has concluded that evidence may be taken bearing on the issues defined in paragraph 6(a) hereof, it reserves its judgement as to the materiality of each of these issues in the determination of the criminality of groups or Organizations under Article 9 of the Charter.

7. Nothing in this Order shall affect the rights of the Prosecution or Defense under Article 24 (E) of the Charter.

W. L. Mitchell

W. L. MITCHELL
Brigadier General, U. S. Army
General Secretary

Copies to:
All Judges
Chief Prosecutors (Capt. Wurmser)
British Secretary
French Secretary
Soviet Secretary
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Office of
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13 March 1946

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2. An Officer shall be appointed to accompany Defense Counsel to Camps or other places whose duty shall be to ensure that Defense Counsel are afforded access to members of accused Organizations interned or at liberty and that subject to security regulations they shall receive facilities for consultation with any persons they may desire to select as witnesses and he shall render every assistance that may permit a free and unfettered selection. In addition the said officer shall have power to control and limit as directed by the Tribunal the number of witnesses to be brought to Nurnberg.

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(2) Whether membership in the Organization or group was generally voluntary or the result of physical compulsion or legal decree;

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/s/ W. L. Mitchell,

W. L. MITCHELL
Brigadier General, U. S. Army
General Secretary

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/s/ W. L. Mitchell,

W. L. MITCHELL
Brigadier General, U. S. Army
General Secretary

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THE INTERNATIONAL MILITARY TRIBUNAL

FINAL REPORT ON THE EVIDENCE OF WITNESSES FOR THE DEFENSE OF ORGANIZATIONS ALLEGED TO BE CRIMINAL, HEARD BEFORE A COMMISSION APPOINTED BY THE TRIBUNAL PURSUANT TO PARAGRAPH 4 OF THE ORDER OF THE 13th OF MARCH, 1946.

NURNBERG, GERMANY 15 AUGUST 1946

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TO: THE INTERNATIONAL MILITARY TRIBUNAL

I have the honour to submit a final report on the hearing of witnesses for Organizations alleged to be criminal in accordance with Paragraph 4 of the Tribunal's Order of March 13th, under which I was appointed Commissioner.

My thanks are due to the following gentlemen who acted as Assistant Commissioners in the hearing of witnesses:

Capt. Joseph F. Tubridy (United States)
Mr. George R. Taylor (United States)
Mr. I. D. McIlwraith (Great Britain)
Mr. I. Rasumov (U.S.S.R.)
M. Martin-Havard (France)

The report is divided as follows:

Part One: Administrative. The carrying out of the Order of March 13th.

Part Two: Summary of evidence of the witnesses heard on Commission.

A.M.S. Neave

A.M.S. NEAVE
Lt. Colonel, AAG

NURNBERG, GERMANY AUGUST 1946

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PART ONE

The carrying out of the

Tribunal's Order of March 13th.

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PART ONE

In October 1945 the Tribunal ordered that notice be given to members of indicted Organizations of their right to apply to be heard by the Tribunal under Article 9 of the Charter. This notice was published in all four zones of occupation. It was distributed in internment camps and published in the German language over the wireless, in newspapers, and in the form of notices posted by Military Government authorities.

As a result of the publication of the notice, the General Secretary's Office received a total of 47,114 applications to be heard by the 8th of February. An analysis of these applications, and the camps and areas from which they came, is to be found in a report issued by the Office of the General Secretary, dated the 8th of February.

The majority of these applications came from prisoner of war camps in the American zone in Germany. By the 26th of April, when a further report was issued, the total number of applications to be heard had reached the figure of 81,433. Members of the SS alone sent in a total of 58,597. The total number received up to the present date is estimated to be more than 110,000. These applications were acknowledged by the General Secretary's Office and forwarded to Defense Counsel. The large majority of them consisted of personal statements by members of organizations to the effect that they had committed no crimes. Many of them were in collective form and consisted of petitions signed by hundreds of inmates of internment camps.

On the 21st of November the Tribunal appointed Defense Counsel for the SS, the Gestapo and the SA, and at a later date for the General Staff, Reich Cabinet and Corps of Political Leaders. In February it was decided that the

SD, which was indicted as part of the SS but whose interests appeared to conflict with those of the SS and GESTAPO, should be represented by a special counsel. At the time of the hearings on Commission the Organizations were represented by 8 Counsel and 23 Assistants.

The provisions of the Tribunal's Order of the 13th of March which lays down the procedure for the selection and hearing of witnesses, were carried out as follows:

1. In accordance with Paragraph 1 of the Order, the General Secretary's Office arranged for Defense Counsel to visit internment camps in all the four zones in order to interview the inmates and to select prospective witnesses. During the months of March and April special tours were organized with the assistance of the Military authorities when the Counsel were accompanied by escorting officers whose duties were to facilitate their entry into the camps for free consultation with members of Organizations. After these tours had been organized, Defense Counsel were permitted to continue their visits and are still doing so at the time of writing. The total number of individual camps visited by Defense Counsel is 80.

The Tribunal decided in March not to limit witnesses to those who had sent in applications and that any person who was available could be called as a witness whether he was technically a member of the Organization or not.

As a result of these visits and in accordance with Paragraphs 1 and 2 of the Order, 603 persons were brought to Nurnberg for consultation and selection as witnesses.

2. The Commission established in accordance with Paragraph 4 of the Order began work on the 20th of May. Applications for witnesses selected by Defense Counsel from persons brought to Nurnberg were first discussed with the

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Commissioners who made decisions as to whether their evidence could be considered relevant in accordance with Paragraph 6.

Progress was at first slow, a number of administrative difficulties being encountered. The Commission ~~were~~ was unable to employ the microphone system of interpreting and in consequence the hearing of witnesses took considerably longer.

It must also be realized that it was understood to be the object of the Commission that these witnesses should be heard as fully as possible and that they should cover a wide ~~field~~ field. It was thought that as a result the Tribunal would be able to decide on the most important witnesses to be heard in Court when the time came for their selection. Every effort was made by the Commissioners to see that the witnesses selected represented as many aspects of the Organization as possible and that opportunity was given to refute the charges of the Prosecution. How far this was done can be judged from the lists of the witnesses included in the Summaries of evidence which follow.

On the 13th of June a second Commission was set-up and as a result, the number of witnesses heard was greatly increased. When the Commission ceased its work by order of the Tribunal on the 3rd of August, the total number heard was 101. The number heard for each Organization was as follows:

Reich Cabinet	1
Political Leaders	22
SS	29
SD	6
Gestapo	13
SA	17
General Staff	13

4. Paragraph 5 of the Order states that after the examination of witnesses, Counsel may apply to the Tribunal to call selected oral witnesses and to offer the evidence of the persons examined on Commission. Defense Counsel applied to the Tribunal for 31 witnesses and 22 of them were

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granted. The numbers allowed for each Organization were as follows:

Reich Cabinet	1
Political Leaders	5
SS	5
SD	2
Gestapo	2
SA	4
General Staff	3

All the witnesses subsequently heard in Court were, with but one exception, people who had already been heard on Commission. The Tribunal had rules on the 17th of April that all persons appearing for the Defense of Organizations should first be heard by the Commissioners.

5. By order of the Tribunal, Defense Counsel were permitted to take affidavits and issue interrogatories to witnesses in appropriate cases. As a result a gigantic number of affidavits from members of organizations interned in camps was collected. These affidavits which were largely cumulative in nature were summarized by the Defense Counsel or by prisoners with legal qualifications in the Nurnberg jail where special facilities were provided. These affidavits are referred to as "collective" affidavits.

There were, however, a considerable number of affidavits taken from prospective witnesses brought to Nurnberg who were not selected for hearing on Commission. By an order dated July the 5th it was decided that such affidavits should be submitted to the Commissioners before being offered as evidence to the Tribunal. Special hearings of the Commission were arranged at which Defense Counsel read summaries of affidavits into the transcript and the Prosecution were entitled to comment or object. If the Commissioners decided that the affidavit was relevant, it was given a number and filed with the General Secretary. 1809 affidavits were submitted to the Commissioners. Of these about 90 were ordered

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to be fully translated. Summaries of the rest are to be found in the transcript of the Commission proceedings, or, in the case of the General Staff, in a special report prepared by Defense Counsel.

The total number of affidavits submitted to the Commission for each organization was:

Reich Cabinet	4
Political Leaders	100
SS	123
SD	69
Gestapo	92
SA	89
General Staff	1,200
NSFK	88
Stahlhelm	44

It is not known at the time of writing how many of these affidavits will actually be presented or discussed in open court.

As for the collective affidavits mentioned above, six separate reports were submitted by the Defense. (The Reich Cabinet did not submit a report, having submitted only 3 affidavits to the Commissioners).

When the time limit for affidavits was reached on August 5th, the total number of collective affidavits submitted was 313,213. The total for each organization was as follows:

Political Leaders	155,000
SS	136,213
SD	7,000
Gestapo	2,000
SA	10,000
General Staff	3,000

Affidavits of both kinds, therefore, numbered 315,022.

6. In carrying out an administrative task of such magnitude, particularly in the bringing of witnesses to Nurnberg from all parts of Germany, the Commissioners were greatly assisted by the General Secretary's Office, Headquarters Command IMT, and 6850th Internal Security Detachment, U.S. Army, and by

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Military authorities in all the four zones of Occupation.

The thanks of the Commission are also due to all those who contributed to giving as wide a selection of representative witnesses to the defence as was possible in the circumstances.

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PART TWO

Summary of Evidence Heard on Commission

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PREFACE

The definition of the evidence considered to be relevant when hearing witnesses for the organizations is to be found in Paragraph 6 of the Order of March the 13th.

In complying with this paragraph the Commissioners encountered a number of problems. In some cases it was possible for them to rule that the evidence given was irrelevant since it was clearly not within the wording of the Order. In cases of serious doubt they made certain comments but allowed the hearing to continue so that the argument which ensued of the Defense or Prosecution could be read in the transcripts. It was considered that the hearings should be as full as possible so that the Tribunal could decide when they came to the hearing of witnesses in Court what matters they thought had been sufficiently covered and what new questions should be discussed.

The Commissioners, therefore, allowed the witnesses to continue in many cases where the evidence was of doubtful relevancy but where it was thought that the Tribunal should read a full report of the questions discussed.

In general, the order worked quite satisfactorily and was not difficult to interpret. There were, however, certain phrases such as "physical compulsion" and "open and notorious or otherwise generally known to the members" which required a good deal of definition. It may be convenient to consider the various paragraphs of the Order. Paragraph 6 a (1) reads:

> "Whether the organization or group charged consisted substantially of an aggregation of persons sharing a general common purpose to engage in activities defined as criminal under Article 6 of the Charter and in this connection what the aims, tasks, activities, methods, structure and component parts of the Organization were."

The Defense Counsel seemed to be in some doubt as to the meaning of this paragraph. A great deal of evidence which was given concerning the structure and component parts of the organization did not strictly fall within this paragraph and the Commissioners were constantly obliged to draw the attention of Defense Counsel to this fact.

The paragraph indicates that the question to be decided is whether the Organization was designed to commit crimes mentioned in Article 6 of the Charter and in this connection what its activities, etc., were. The words "In this connection" were frequently overlooked by the Defense Counsel. As a result, an exhaustive description of practically all the departments concerned has been given in very great detail and while this is of considerable interest to the historian, in the opinion of the Commissioners it is largely irrelevant.

The point made by the Commissioners was that it was not the intention that the structure of the organization as such should be given. It was intended that the details of the organization should only be described insofar as they were intended to refute the particular crimes alleged under Article 6 of the Charter. It was, for instance, considered quite relevant to show that disciplinary action was taken against people who committed atrocities in concentration camps and what was the practice of the SS Courts in dealing with these because these were crimes mentioned in the Charter.

The Commission, however, stopped the examination of a witness on proceedings taken against individual members of an Organization for fraud and embezzlement since this was considered to relate only to a matter of internal discipline. It was, however, considered that the Organization should be allowed to call representative witnesses to give a clear general picture of the Organization as a whole. For this reason the witnesses were allowed to describe local branches in dif-

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ferent parts of Germany though they all said substantially the same thing. They did, however, manage to add "local color" to evidence which otherwise would have been regarded as cumulative. As a result, it is believed as complete as possible a description has been given.

The Commissioners had no difficulty in deciding that the Defense should be allowed to describe the structure of the Organization in order to show that the charts submitted by the Prosecution were incorrect. The majority of charts submitted by the Prosecution in the case against the SS and General Staff have been challenged on the grounds that they were liable to misunderstanding and would create a false impression of the duties and chain of command in the mind of the Tribunal.

Another purpose of the Defense in describing structural details was to show that the Organizations were not united groups. They claim that they did not function as complete units, e.g., the various sections of the SS operated entirely independently of each other and the General Staff was a mere loose association of Staff Officers and Commanders who received orders from the top but never functioned as a Council of War.

It appears to be the contention of the Defense that if they can show that a majority of the members were innocent or ignorant of crimes mentioned in Article 6 of the Charter, the Organization as a whole should not be declared criminal. They have, therefore, tried to dissect the Organization into different groups which had no relation to each other and to show that the actual criminals were a very limited number of people who kept their activities secret. This is particularly true of the SS, the GESTAPO and the SD, all of whom claim that there were thousands of subordinate or even honorary members of those organizations who did not belong to the inner executive circle.

The next point to be considered is paragraph 6 a (2); whether membership in the organization was generally voluntary

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or the result of physical compulsion or legal decree. Here, as in other cases, it has been very necessary to ensure that the evidence given does give a clear general picture of the conditions of membership. As far as possible, individual stories have been ruled out except insofar as the witness concerned might be said to be speaking for a considerable number of people. His evidence was also allowed if he was the head of a department which controlled recruiting and statistics, since it was within the scope of his duty to have knowledge of such things.

Evidence, for instance, that all civil servants were compelled to join the Organization by legal decree was clearly admissible, particularly if the evidence was given by a witness who was responsible for the administration of the civil service. Evidence, however, that particular individuals were placed at a disadvantage by not belonging to the Organization was only allowed insofar as the matter related to a general practice in Germany. Evidence that a father strongly advised his son to join an Organization because it was considered to have high ideals was not allowed.

The question of "physical compulsion" was from the first the subject of considerable argument. Before the Commission actually began its proceedings an attempt was made to come to some decision as to the interpretation of this phrase through a meeting by the Prosecution and Defense at which the Commissioners heard their views. The Defense stated that in their opinion "economic" compulsion should be included. By this they meant the fear of business or social disadvantage as a result of refusal to join the Organization. They also wished to include what they called "psyclogical" compulsion. That is to say, the general fear pervading the people of Germany that they might be punished or be declared outcasts if they were not members.

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This idea of psycological compulsion was objected to by the Prosecution who considered that the order meant what it said and that the compulsion described involved the threat of actual physical force.

As to what might be considered economic compulsion, no final decision was made. The Commissioners felt that it was not necessary to make any final ruling but to adhere as closely as possible to the wording of the order, but they agreed that physical compulsion as a rule should include the threat of disciplinary measures or imprisonment. It was thought that the vital point to decide was what the actual consequences of refusal would have been . Perhaps more important was the question whether there was any evidence of such consequences having ensued in actual cases.

A considerable amount of evidence was given that disciplinary measures or even internment in concentration camps might have followed but there was no evidence that any actual refusal occurred. (See evidence for the Order Police who allege that some of their members joined the SS under pressure).

The reasons for the contention of the Defense that the term "physical compulsion" should be enlarged to include pressure of other kinds seems to be as follows:

It has already been said that it is their contention that if it could be proved that a large majority of members were innocent of any actual crime the Organization as a whole can not be declared criminal. According to the same reasoning, therefore, they wish to show that as large as possible a number of members joined the Organization unwillingly and also that they demonstrated their unwillingness.

This is particularly to be seen in the evidence for the Stahlhelm, an ex-servicemen's organization which was transferred by decree to the SA in the Spring of 1934. The

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members of this organization numbered at least one million at the time of their transfer. They claim that they were not consulted about it and that they were so indignant that they remained in opposition to the principles of the SA for the next eleven years, i.e. until 1945. If they were asked why they did not resign, they said this was impossible or that they were under some form of compulsion which might involve them in disciplinary measures or financial loss.

Another example of this alleged involuntary membership is a claim on behalf of the thousands of young students who were not permitted to continue their studies in the universities without furnishing evidence of their membership in the SA or in other organizations.

The Defense, therefore, considered it in their interest to widen the interpretation of the word "compulsion" as much as they possibly could, in order to bring in the greatest number of members.

The Prosecution have continued to declare "mental coercion" as immaterial. They consider that the nature of the coercion must be such as is normally recognized by law. Threats of political or economic consequences should not be valid. The Defense's reply to this is that the fact that a large number of members were involuntary members is of such decisive importance for the declaration of criminality that mental coercion must be included. They concede, however, that an organization in the sense of Article 6 of the Charter could be considered criminal even if all the members had been subjected to such pressure. They say, however, this could only be done from a "formal juridical standpoint", on the grounds that according to Anglo-Saxon law, an organization is accountable for crimes committed within it even without the knowledge and against the will of the members.

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They protest that in this trial conditions are quite different (See memorandum dated the 5th of June of Dr. Klefisch on the concept of a criminal organization, pages 48-49).

We come now to the question of knowledge of criminal activities on the part of the members. Mr. Justice Jackson has stated that the nature of the criminal aims and methods must be such that they were "generally" known. This is substantially the wording of the order which includes the expression "open and notorious". Similarly Sir David Maxwell-Fyfe has said "The nature of the criminal aims or methods must have been such that a reasonable person must have had knowledge of the purposes pursued by the organizations which he joined, i.e., he must have known what kind of an organization it was."

Here again the Commissioners considered it their duty to try and limit the evidence to what appeared to have been the general situation in Germany at the time.

The Prosecution has frequently alleged that the "whole world" knew about these crimes and so why did not the members? This was attacked by the Defense as being entirely untrue. It is their claim that under the HITLER regime the reading of foreign newspapers or listening to foreign broadcasts was prohibited except for a very small circle of officials of the Government. In consequence it was impossible for the average person to have knowledge of such atrocities even though they were being published all over the world. (See evidence of Von THADDEN for the SS).

The Defense furthermore contended that it was the policy of the GESTAPO and other security organizations to conceal their activities from the public. They make this claim particularly in respect of the alleged crimes by the GESTAPO, the EICHMANN Group, the SD and the Einsatzgruppen. The implication is that these groups consisted of a small number of

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elite and specially trained people who were sworn to secrecy. For special tasks like the fabrication of frontier incidents on the Polish Border in 1939, HEYDRICH employed special SD men whom he considered reliable. These so-called SD men, claimed the Defense, were not actually members of the SD but merely those whom HEYDRICH or HIMMLER trusted. It is the main contention of the Defense - that the so-called "dirty jobs" were carried out by a few selected gangsters who formed a minority in the organization.

This supression of information by the GESTAPO and other organizations played some part in the evidence regarding the extermination of the Jews. Where it could be shown that the GESTAPO deliberately prevented information from reaching any large number of members of the population this was considered relevant. A mere statement, however, by a witness who asked the GESTAPO for information as to whether the atrocities alleged in Auschwitz were actually occurring and received a negative answer, was declared inadmissible. There appeared to be no evidence that this information was passed on to the public as a whole, nor in this particular case, did it appear to relate to the organization (the SS) for which he had sworn an affidavit.

For the same reason evidence by a witness that his own brother had been an inmate of Belsen concentration camp and told him that there were no atrocities going on, was declared irrelevant to the question of whether the atrocities were generally known to the SS.

Similarly, evidence was also declared irrelevant which related only to the guilt or innocence of a particular person.

The summary of evidence which follows will perhaps serve to illustrate further problems concerning the Order of March 13th that have arisen during the hearings.

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NOTE BY THE COMMISSIONER:

The report on the evidence heard on Commission which follows has been compiled from the offical transcripts and from summaries made of the testimony of individual witnesses.

It is primarily intended to be an account of evidence given for the Defense. It does not purport to be more than an attempt to set-down the main points which it would appear that the Defense wish to establish.

Where there has been doubt in the minds of the Commission as to the meaning or relevance of the evidence, the pages of the transcript referred to are quoted in the text, in order that the complete record may be consulted.

Matters raised by the Prosecution in cross-examination have also been included to give as full as possible an account of the hearings, but only in so far as some clear contradiction or admission is shown.

It has already been announced by the Tribunal that these summaries have no value as evidence and do not form any part of the record.

Since the numerous affidavits submitted have been summarized on Commission, it is not intended to write a separate report on their contents. The evidence contained in them is not, therefore, dealt with in this summary.

A. M. S. NEAVE
Lt. Colonel, A.A.G.

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THE CORPS OF POLITICAL LEADERS

The following witnesses gave evidence on Commission for the CORPS OF POLITICAL LEADERS:

FOR THE GAULEITERS:

KARL WAHL	Gauleiter in Schwaben (Bavaria) 1928-1945
KARL OTTO KURT KAUFFMANN	Gauleiter of Hamburg 1928-1945
ALBERT HOFFMANN	Gauleiter of Southern Westphalia 1943-1945

FOR THE KREISLEITERS:

EDUARD KUTHL	Kreisleiter in Hanover 1943-1945
EWALD SCHLEICKER	Kreisleiter in Coblentz 1937-1945
EDWARD WILLY MEYER-WENDEBORN	Kreisleiter in Kloppenburg 1934-1945

FOR THE ORTSGRUPPENLEITERS:

HANS WEGSCHEIDER	Ortsgruppenleiter in Allgau 1933-1945

FOR THE BLOCK AND ZELLEN LEITERS:

ERNST . HIRT	Blockleiter in Nürnberg 1942-1945
RUDOLF KUEHN	Blockleiter in Berlin 1935-1945
HANS SCHNEIDER	Zellenleiter in Augsburg 1936-1942
PAUL WOLF	Zellenleiter in Saarbruecken 1941-1945

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A second group of witnesses was drawn from the officials of the Gau and Kreis Staffs and of organizations affiliated to the NSDAP:

BRUNO BIEDERMANN	Gaupersonalamtsleiter (personnel)
ELSE PAUL	Reichsfrauenschaft (women)
ERNA WESTERNACHER	Frauenschaftleiterin (women)
ANTON SCHUELLER	NSV (Welfare)
JOHANN MOHR	Agrarpolitisches Amt (Agriculture)
PAUL KOPPE	Office of "Community Policy" (Local Government Affairs)
THEO HUPFAUER	DAF (German labor front)
KARL ENGELBERT	Kreiswirtschaftsberater (Kreis economic advisor)
PROFESSOR FRANZ KARL CHUDOBA	Student Organizations
GRAF VON ROEDERN	Auslandsorganization (Foreign Organization of the Party)
RICHARD MUELLER	Central Administration of the Party (The Treasury)

The total number of witnesses heard, therefore was 21.

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From examination of the transcripts of the evidence, it would appear that the Defense are seeking to establish:

1. That the POLITICAL LEADERS and their staffs were not as a group involved in a conspiracy to commit crimes under the Charter.

2. That the main responsibility for political and party affairs lay with the Gauleiters and Kreisleiters who received their directives from the Central Party Organization through HITLER, HESS, BORMANN or the Reichsleiter in the Central Party Organization.

3. That the political responsibility of the Ortsgruppenleiter was unimportant.

4. That the Block and Zellen Leiters only performed social and welfare duties. They had no real political responsibility.

5. That the official description of the Block and Zellen Leiters as "Hoheitstraeger" is a misnomer. They had none of the privileges or responsibilities of this title. They did not act as spies or informers on the population.

6. That there was no direct link with the SS, SA or GESTAPO except an unofficial liaison on the Gau level.

7. That none of the categories of POLITICAL LEADERS were responsible for ill treatment of foreign workers or Jews in their districts. They were not concerned with and never entered concentration camps. They were forbidden to involve themselves in Church questions.

8. That the POLITICAL LEADERS played no part in the Jewish program of November, 1938.

9. That the Staffs of the Gauleiters and Kreisleiters had no political functions. They were only concerned with administration, welfare or technical matters.

10. That the Labor Front Women's Organizations and student groups were non-political.

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11. That the Foreign Organization (Auslandsorganization) of the Party was not an espionage service.

It will be convenient to describe first: the organization and duties of the various political leaders, their staffs and the labor and welfare organizations attached to them. In the second part of this Summary is described the defense of the POLITICAL LEADERS against the charges of the Prosecution that they committed crimes specified in Article 6 of the Charter. Part III refers to knowledge and Part IV to conditions of membership and the holding of office.

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ORGANIZATION AND DUTIES OF THE POLITICAL LEADERS AND THEIR STAFFS AND OF AFFILIATED ORGANIZATIONS.

Organization Book of the Party
(PS Document 893)

All the witnesses from Gauleiter down to Blockleiter gave evidence on the Organization Book of the Party, Document PS 893. They said that this was a "theoretical" document which inaccurately described the structure of the Party. Gauleither WAHL said that nobody in the Reich ever read the book. Its large circulation could be attributed only to the fact that everyone down to Ortsgruppenleiter was compelled to buy it. It was known as the "organizational nonsense of Dr. LEY". Even HITLER himself appeared to disapprove of it.

According to HIRT neither Block nor Zellen Leiters were familiar with its contents.

The Defense are here presumably trying to show that in relying on the Organization Book of the Party, the Prosecution have drawn an incorrect inference as to the structure and functions of the POLITICAL LEADERS.

BIEDERMANN, representing the Gauleiters Staff, said that the Organization Book of the Party could not be considered as a directive to Party Leaders in a comparable sense with an Army field instruction book. He said that many POLITICAL LEADERS looked at the book because it contained colored illustrations, etc. He knew of no one who actually studied it and used it in their work.

MEYER-WENDEBORN, Kreisleiter, explained that the regulations prescribed were followed in a general sense but it was impossible to require local POLITICAL LEADERS to adhere strictly to this manual. He regarded the book as a general basis on which political work should be carried out but did not believe it had any official significance beyond

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this (See pages 557 to 558 of the transcript).

Definition of "Hoheitstraeger"

The term "Hoheitstraeger" or "bearer of Sovereignty" signifies a POLITICAL LEADER who held a position of special responsibility in the carrying out of the party programme. It was an invention of Dr. LEY, Gauleiter WAHL alleged that the POLITICAL LEADERS refused to use the term. They never felt that they were "sovereigns" but only "humble servants of the population."

Although the Organization Book includes Blockleiters and Zellenleiters as "Hoheitstraeger", in practice only the Gau, Kreis and Ortsgruppen Leiters belonged to this category.

For the witness SCHNEIDER, a Zellenleiter, it was a title without meaning and conferred no special privileges on the recipient. (Pages 1402 - 1403 of the transcript).

There was a publication known as "Der Hoheitstraeger". This was not distributed below the rank of Ortsgruppenleiter. (For further reference to the claim that the Block and Zellen Leiters were not in reality "Hoheitstraeger", see the description of their functions below).

I. THE GAULEITER

The Gauleiters were the principal provincial representatives of the Party, who were subordinate to the Central Party Organization and the Reichsleiters. There were 42 Gaus in Germany. The Prosecution's contention that the total number of Hoheitstraeger including Blockleiters and Zellenleiters was about 600,000 appeared too small to the witness WAHL. He thought that the increase in POLITICAL LEADERS between 1930 and 1945 was probably greater than this. He estimated that in his Gau there were about 12,000 to 25,000 POLITICAL LEADERS. (If his Gau is to be taken as

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average in size, the total number would therefore be about 650,000).

Gauleiter KAUFFMANN declared that a well organized and disciplined party organization was necessary to insure freedom of activity, particularly in the sphere of propaganda. This was because the party originated at a time when there was violent and even armed opposition to its programme.

The control of Party affairs consisted in meetings with Kreis and Ortsgruppenleiters, oral instructions and circulars issued by HITLER and the Reich leaders. It was the function of the Gauleiter to interpret these directives and to issue them to lower formations. The Kreisleiter had a certain discretion in the interpretation of orders but the Ortsgruppenleiters were given definite instructions. The Block and Zellen Leiters were merely executive subordinates of the Ortsgruppenleiters.

The meetings of the Reichsleiters, Gauleiters and Kreisleiters were at first open discussions known as "Tagung". During the last ten years, however, these discussions were less free and gradually developed into meetings at which orders and directives were issued. They were not secret and were attended by the Press. The subjects discussed varied but matters mentioned in the Indictment, such as plans for aggressive war, were never referred to.

WAHL said that HITLER's decrees by which no one had a right to know more about policy than was necessary for the execution of the orders which he received was literally carried out.

Gauleiters in War Time

During the war a number of Gauleiters also held the position of Reichs Defense Commissioner. Gauleiter HOFFMANN who was Gauleiter and Reich Commissioner for Defense in Southern Westphalia, stated that these two functions were separate. Thus in his Gau, he tried to ensure that the work of the Kreisleiter and Ortsgruppenleiter did not conflict with that of the municipal officials concerned with defense and air raid precautions. As

Reichs Commissioner he was in charge of all air raid precautions and was even permitted to decorate persons who had shown gallantry during air raids.

Office of the Deputy of the Fuehrer

This Gauleiter had previously been an official on the staff of the Deputy of the Fuehrer HESS. He denied that while holding this position he learned anything concerning the planning of outrages against the Jews in 1938. Had this been done by the Higher Political leaders he would certainly have known. He said nothing about the methods by which the Department of the Deputy of the Fuehrer and the Reichsleiter distributed orders to the Gauleiters.

II. THE KREISLEITERS

The Kreisleiters were next in rank to the Gauleiters and as already described, they had some discretion with regard to orders received from the Deputy of the Fuehrer or the Reichsleiter. They had weekly discussions with members of their staff and with the local administration. Every four to six weeks they had discussions with the Mayor and Ortsgruppenleiter. At these meetings officials from the Welfare Organization, German Labor Front and Propaganda Department, together with other local officials, were present. The meetings were open to the public.

The witness KUEHL attended a large number of meetings of Kreisleiters and Ortsgruppenleiters in the Hanover District from 1939 onwards. He declared that none of the meetings were secret and that no matters relating to crimes mentioned in Article 6 of the Charter were discussed there.

It appears that important business ofthe district was transacted through orders or directives sent to the Kreis authorities in written form. In general, written instructions never went lower

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than Ortsgruppenleiter. Instructions to officials below that rank were delivered orally, sometimes by means of public meetings.

Subordinate Offices in the Kreis

MEYER-WENDEBORN said that he and other Kreisleiters met every six or eight weeks to exchange information (See page 557 of the transcript). He described three types of subordinate offices within the Party organization. These were firstly "leadership offices" which were composed of Departments for administration, propaganda, personnel and training. Secondly, there were personnel offices which included the DAF (labor front), peasants' department, civil servants department, education office, the NS Frauenschaft (women) and legal branches. Thirdly there were the welfare offices; the NSV or national welfare organization, the NSKOV, which was the veterans' organization, the public health office, municipal departments, industrial and technical sections.

The chiefs of these offices were not responsible for the political training of the people. They did, however, take part in the Gau, Kreis and Ortsgruppen Leiter conferences. Their functions are further described below (See second part of this).

Kreisleiter SCHLITCKER said that the office for local government affairs was known as "the office for community policy". He included also in the Gau and Kreis staffs the Volksdum office for racial policy and a Press section. There were in practice two spheres within which these offices attached to the Kreis carried out their duties. Those who carried out the most important functions, such as finance, propaganda and training, formed the inner department of the Kreis staff, the remainder formed an "outer circle". The structure of the offices at Gau and Kreis levels was exactly the same. (See page 685 of the transcript).

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III. THE ORTSGRUPPENLEITER

In the district supervised by HANS WEGSCHEIDER the organization of the Ortsgruppenleiter staff consisted of a Kassenleiter (treasurer), an organization leiter, a training leiter, two Zellenleiters and 8 Blockleiters. The Ortsgruppenleiter relied on the Zellen and Block Leiters to collect subscriptions and to distribute party directives. The Zellenleiters were responsible for delivering instructions to the Blockleiters. The Ortsgruppenleiter kept files recording subscriptions to the party funds but in the witness's district there were no files on the political views of individuals. The Ortsgruppenleiter had no authority in police matters and could not call upon the SS or the SA for any purpose.

Public Meetings and Conferences in the Ort.

The witness held three large meetings of a communal nature between 1933 and 1939. There were other meetings ordered by the Kreisleiter. These meetings were usually held in the spring and autumn of the year and were open to the public. Gau and Kreis representatives lectured on the principles of National Socialism and discussed agricultural problems. The Ortsgruppenleiter held meetings with his subordinate leaders about every six months. The witness's district was largely agricultural and the object of these meetings was, therefore, to ascertain the reaction of the inhabitants to the directives of the Government on farming. The Block and Zellen Leiters did not have meetings or conferences among themselves.

Twice or three times a year the witness attended a conference with the Kreisleiter. At these meetings representatives of the Reichsleiter were present and gave lectures on such subjects as the NSV (welfare), the DAF (labor front) or peasant questions. The meeting usually included a general discussion, after which the Kreisleiter gave a closing address.

Policy Pursued towards Members of the Public

WEGSCHEIDER was emphatic that at none of these meetings were measures or plans discussed that could be regarded as criminal. In 1934 his Kreisleiter laid down as a basic principle of the POLITICAL LEADERS that they should not govern the people but lead them. Witness said he was especially directed that if persons criticised the State or its measures, the reason for their criticism should first be ascertained in order to see that no injustice was being done. The witness instructed his Block and Zellen Leiters to pursue this course of action. He also instructed them that if it was necessary to report a member of the public, a signed statement should first be submitted to him certifying that the facts were correct. During the whole period that he was Ortsgruppenleiter he received only one complaint. This was the result of a disagreement between two members of the party.

Propaganda.

Cross-examined by the Prosecution, MEYER-WENDEBORN said that the Ortsgruppenleiters had propaganda assistants called the Ortsgruppen Propaganda leaders. These men had the task of advertising meetings. Political education was under a so-called Schulungsleiter who was supervised by the Ortsgruppenleiter but was actually within the jurisdiction of the Gauleiter. The reading of "Mein Kampf" was ordered by higher authority but the majority ofwitnesses from Gauleiter downwards denied that they had ever thoroughly read the book. MEYER-WENDEBORN admitted, however, that according to PS-1893, US Exhibit 323, it was customary for extracts from "Mein Kampf" to be read at meetings held by the Zellenleiters.

The Ortsgruppenleiters received the publication "Der Hoheitstraeger". This journal is not correct in saying that persons termed "Hoheitstraeger" have the right to order the

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assistance of the SA and the SS in certain cases. It was admitted, however, that there were exceptions to this rule and that the POLITICAL LEADERS could call upon the SA or SS to distribute propaganda. As to employment of the SA by POLITICAL LEADERS, see summary of evidence for the SA).

Alleged Interference in Elections

Document D 43 was put to Kreisleiter KUHL. This was an instruction from a Kreisleiter in Bremen in May, 1936 ordering his Ortsgruppenleiter to make a report on civil servants who did not vote. The document stated that such reports had been ordered by the Minister of the Interior FRICK. KUEHL said that this must have been a mistake and he thought that no such instructions were ever given in Bremen.

IV. BLOCK AND ZELLEN LEITERS

The position of the Block and Zellen Leiters was, according to all the witnesses, one of no political significance. It has already been stated that they received their instructions orally from the Ortsgruppenleiter. They were the assistants of the Ortsgruppenleiter for the collection of subscriptions and other administrative matters (testimony of MEYER-WENDEBORN, page 599 of the transcript).

The Zellenleiters were responsible for four blocks in WEGSCHEIDER's district where there were eight Blockleiters and two Zellenleiters. The duties of the Zellenleiters consisted principally of acting as intermediaries between the Blockleiters and the Ortsgruppenleiter and his Staff. They received money collected by the Blockleiter from members and handed it over to the Kassenleiter (treasurer) on the Ortsgruppenleiter's staff. They performed a similar function with respect to relief work, lotteries and tickets for meetings. They passed on to the Block-

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leiters pamphlets, training notes and propaganda material which they received from the Orts Propaganda Leiter. They kept the Blockleiters informed of conferences at which their attendance was required. They had no staff and no assistants. The witness SCHNEIDER observed that one can not speak of a staff on any level lower than that of Ortsgruppenleiter. The fact that the staffs of Ortsgruppenleiter appear to have been excluded by the Prosecution is unsatisfactory. The Blockleiters and Zellenleiters were greatly inferior in authority and political responsibility to the members of the staff of the Ortsgruppenleiter. The situation results that the subordinate officials have been indicted and those who had more authority have been excluded. (See evidence of ERNST HIRT, page 998 and evidence of SCHNEIDER, page 1399).

Conferences of Block and Zellen Leiters with the Ortsgruppenleiter, in fact, took place only as required. As a result of the war both Block and Zellen Leiters acquired new functions. The principal addition to their work was the supervision of air raid precatuions and the organization of relief measures.

Duties of Blockleiters

The witness HIRT said that during the war the Blockleiter had the following principal duties: The collection of dues, the maintenance of a card index of his block, the distribution of proclamations and pamphlets and various social and relief tasks. Air raid precaution duties included the finding of billets for bombed out persons (see transcript of page 997).

HIRT denied the existence of any Blockleiter staff such as is described in the diagram on Page 101 of Document 1893 PS. There were assistants or substitutes for the Blockleiters known as Block Helfers but these were comparatively rare. The Blockleiter did not supervise the work of the Block foreman, the Block women's leader or the Block administrator as alleged on Page 103 of the above document and they did not come under his disciplinary

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authority. The Blockleiter's contact with the Zellenleiter was confined to the checking of receipts of money from subscribers and the receiving of instructions. There was no contact between the Blockleiter and higher political authorities such as the Kreisleiter and Gauleiter. The Blockleiters were in no sense "Hoheitstraeger". The word meant very little to the average Blockleiter. Blockleiters had no authority to give orders to the residents of their block.

Further Definition of "Hoheitstraeger"

During the examination of HIRT, Defense Counsel referred to 2639 PS in which it is stated that the Political Leadership within the Party rests solely and only in the "Hoheitstraeger", which is to say the Reichsleiter, the Gauleiter, Kreisleiter and Ortsgruppenleiter. Witness agreed that this was the proper definition of "Hoheitstraeger". He confirmed that the publication "Der Hoheitstraeger" was never distributed to Block and Zellen Leiters although they constituted 93% of the political leadership corps.

Asked in cross-examination on Document 2958 PS, USA 325, why page one of the February, 1939 edition of "Der Hoheitstraeger" states that the book is to be received by "the following Hoheitstraeger down to Ortsgruppenleiter", witness said he could see no particular signficance in the word "following".
(The purpose of this question was apparently to find out why if the POLITICAL LEADERS who were included in the distribution list constituted all the "Hoheitstraeger", it was necessary to insert these words and whether the fact of doing so implied that there were other "Hoheitstraeger" than the various leiters down to Ortsgruppenleiter.)

He was then referred to 1893 PS (Page 3) which enumerates Zellen and Block Leiters among the "Hoheitstraeger". He had no explanation to offer for this though he admitted that he was speaking on the basis of a comparatively narrow personal knowledge of

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Blockleiters and Zellenleiters before the War.

At this point the Defense submitted in evidence an affidavit sworn by one KARL HEDERICH, Chairman of the Commission for National Socialist publications from 1934 to 1945. This affidavit states that there was confusion and uncertainty within the high party ranks as to the exact concept of "Hoheitstraeger", and if the Block and Zellen Leiters were included within this term, it was merely a matter of form. HEDERICH denied that they had in fact the necessary authority (Page 1055-1057 of the transcript).

The Block and Zellen Leiters Were Not "Little Caesars"

The two main charges preferred by the Prosecution against the Block and Zellen Leiters are firstly that they were "little Caesars" who terrorized the population and secondly, that they were spies and informers. All the witnesses denied the charge that Blockleiters were "little Caesars" or minor dictators, in view of their lack of political responsibility. One Blockleiter was of the opinion that the maintenance of their families and performance of their tasks as Blockleiters absorbed all their time so that they could not have terrorized the population. He did not think that the great majority of Block and Zellen Leiters should be held responsible for the conduct of a few fanatics. It was in fact most essential, particularly during the war when they were concerned with air raid precautions, that the Blockleiters should be as polite as possible to people in the performance of their duties. They had no legal authority to confiscate property, to make arrests, nor to use the SA or SS for that purpose. (Pages 1025 to 1026 of the transcript).

They Did Not Spy on the Population.

The charge that the Block and Zellen Leiters were spies and informers on the population brought a veritable storm of protest from all the witnesses. It was denied that there ever

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existed any party spy system. The existence of such a thing would have defeated the purpose of the party organization. It was necessary that the Blockleiters retain the confidence of those among whom they lived.

Household Card Index System

Kreisleiter KUHL explained Document PS 901A (a circular from the Gau organization office of Cologne-Aachen of May 31, 1941) which directed that Block and Zellenleiters were to maintain a filing system of households, as meaning that the files were to be kept primarily for the welfare organization of the party. The inclusion on the file cards referred to in this document of information regarding possession of radio receiving sets, which newspapers were read or political opinions held by the inhabitants went far beyond the original intention of the system. KUHL said that in Hanover heads of households themselves filled out the cards and no political information was put on them.

Other witnesses say that far from Block and Zellen Leiters being given instructions to spy on the population, they were warned against prying into other people's business. That this is true, they say, is to be seen in Document 2639 PS, a regulation in which the subordinate party leaders are warned against measures which are liable to make them lose the confidence of the people.

It was the intention of the party that people who had grievances should take them to the Block and Zellen Leiters and in practice agrieved persons might go to the Block or Zellen Leiter for his advice and if he thought fit he could pass the matter on to the Ortsgruppenleiter (see transcript of MEYER-WINDEBORN, Pages 601-602).

Similar evidence that the Block and Zellen Leiters were not spies and minor dictators was given by other witnesses. It

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was denied that any Blockleiters were aware of the existence of the SD although on cross-examination this transpired to mean that they were uninformed as to the scope of its activities (see Pages 1400-1401 and 1416 of the transcript).

The Spreading of Rumors.

HIRT disagreed with Page 101 of the Organization Book which stated that Blockleiters were supposed to find the propagators of harmful rumors and report them to the Ortsgruppenleiter. This was not the specific task of a Blockleiter but it was true that all Germans were supposed to report anyone who spread rumors. He told the Prosecution that he had never heard anything of Blockleiters sending in morale reports on individual citizens although he did recall hearing his Ortsgruppenleiter say he had to submit reports to the Kreis and Gau Leiters on the general morale of the population (see Page 1028 of the transcript).

Elections.

In further cross-examination on this subject, reference was again made to Document D 43, dated May 26, 1936, wherein Reichs Minister of the Interior Frick sent instructions to all the Gaus requiring that reports be made on all officials who had not fulfilled their duty in voting in the election of March 29, 1936 (see evidence of Kreisleiter KUTHL).

MEYER-WENDEBORN could not explain why such reports were necessary if the election were a free election, nor could he explain why there were instructions that the order should be destroyed. He did not agree that the Ortsgruppenleiter would have required the assistance of Block and Zellen Leiters to gather the information necessary for this report. He thought that the Block and Zellen Leiters had no information or knowledge of voting qualifications nor did they have files on persons opposed to the Party.

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The next part of this Summary of evidence is devoted to the duties of officials of the Staff of Gau, Kreis and Ortsgruppen Leiter and to affiliated welfare and labor organizations. It was declared by the Defense that none of these groups performed essentially political duties. It is not proposed to describe these in great detail.

THE GAUPERSONALAMT (PERSONNEL)

BRUNO BITTERMANN who held the office of Chief of the Gau Personnel Section in Thuringia stated although all tasks of the party were to a certain extent of a political nature, staff and personnel officers were only concerned with administration. It was, however, true to say that the propaganda offices on the staffs of the Hoheitstraeger were engaged in "spreading the Gospel" to the people. He did not give any clear evidence as to the functions of the personnel branch but he described, in reference to the Organization Book, Fourth Edition (Page 93), a distinction between a "call to office" and "appointment to office". He explained that a party member was usually appointed to an office for a probationary period of six months and if his services were considered satisfactory his appointment was confirmed. He did not hold the necessary rank until this confirmation had taken place. If, therefore, the Prosecution used the term POLITICAL LEADERS in the sense that the Nazi Party used it, all those holding office without being expressly appointed should be c cluded.

THE REICHS FRAUENSCHAFT (WOMEN)

ELSE PAUL was a member of the Reichsfrauenschaft from 1943 to 1945 and served as Deputy to Reichsfrau Scholtz-Klink who was the head of all women's organizations in the Reich. She said that in 1938 the Frauenschaft had approximately two million members. Its organization was separate from the POLITICAL LEADERS.

Women were forbidden to be active in politics, or to make speeches. The Frauenschaft did not intervene in religious controversies or the persecution of the Jews. The witness, however, recalled one instance where members of the Frauenschaft were detached to "instruct Jewish youths in sewing".

In cross-examination she admitted that the Frauenschaft supported the party and its principles. Shown Document D 884, Organization Document #10 pertaining to regulations concerning the pregnancy of foreign women workers, she admitted that the Frauenschaft were on the distribution list.

ERNA WESTERNACHER, a member of the Frauenschaft in Frankfurt, gave similar evidence. She admitted having attended conferences with the Gauleiter who, she said, was only too happy if he could have nothing to do with Frauenschaft questions. She said that the Frauenschaft leaders were available to the competent Hoheitstraeger as expert advisors but the Hoheitstraeger had no right to issue orders to them nor had they any disciplinary authority over them.

THE NSV (WELFARE)

ANTON SCHUELLER, who gives evidence on Page 1069 of the transcript, stated that he was a Kreisamtsleiter of the People's Welfare Association known as the NSV. The purpose of calling him was to show that the NSV agents had no political functions on the staff of the Kreisleiter. They were merely expert advisors working under the direction of the main welfare organization. This situation applied to the staff of any Hoheitstraeger. They were responsible for all measures of welfare or relief in the district without discrimination as to race or politics.

The NSV was a registered association founded in 1933. The term "registered" in this case meant that the employees of the NSV belonged exclusively to that association and were not employees of the Party. Employment was on the basis of a private contract

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of service within the German civil code. He said that it was fair to say that all instructions pertaining to his work came from the NSV headquarters and not from the party although admittedly the Kreisleiter held regular staff conferences which the NSV attended. They attended, however, only as part of the "outer circle" of the Kreisleiter's staff. (See description of the Staff of the Kreisleiters). It was strictly forbidden for NSV representatives to mix in politics.

In cross-examination the witness denied that it was part of the duty of the NSV to assist in destroying the influence of the Church and Church schools.

ARGARPOLITISCHER AMT (AGRICULTURE)

The witness who gave evidence concerning this department was JOHANN MOHR, who was prominent in farming affairs within the party organization from 1932 to 1945. He was an important farming official in Munich. The offices which he described were the Agrarpolitisher Apparat in the Reichs Amt (Council for Farmers' affairs), its successor, the Amt für das Landvolk (Farmers' office) and the Reichs Nachrsstand. This last organization was created in 1933 as a public corporation.

Prior to 1933 there had been a number of other farmers' associations of a semi-political character. The Agrarpolitischer Apparat was set up by DARRE, later Minister for agriculture and consisted of a number of advisors in the offices of the Hoheitstraeger. It was their task to advise the Hoheitstraeger on all farming problems and to inform the farmers of the Party policy.

On the formation of the Reichs Nachrsstand these functions were transferred and officials of the Reich Nachrsstand held the title of Landesbauernfuehrer in the Gau, Kreisbauernfuehrer in the Kreis and Ortsbauernfuehrer in the Ortsgruppen.

The Agrarpolitischer Apparat continued to exist until DARRE's resignation in 1942. BORMANN created the Amt für das

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Landvolk (the office of farmers) but the basic organization of the Reichs Naehrsstand was not changed, and maintained an independent position in opposition to his policy.

MOHR said that in no sense could the farmers' advisors to the Hoheitstraeger be termed staff officers of the Kreis or Gau Leiters since they had no official functions.

The Organization Book of the party shows the Agrarpolitischer Apparat as consisting of a number of main offices concerned with the following subjects: press and propaganda, farmer's "culture", racial questions among the farmers, training, agriculture, economics and personnel. There was also a department for legal problems. These offices, however, were largely nominal.

OFFICE FOR COMMUNITY POLICY (LOCAL GOVERNMENT AFFAIRS)

PAUL KOPPE said he was an official on the staff of the Gauleiter and dealt with what was known as "community" policy. This translation is not clear but it seems to mean an office for local government or municipal affairs. The office was divided up into a Gauamtsleiter and five assistants. It administered settlement and emigration, legal matters, culture, training, relief workers and civil servants. In disciplinary matters it was subordinate to the Gauleiter. Instructions, however, were not received from the Gauleiter but from the Reichsleiter in the main office for "community policy".

On the Kreis level there was a Kreisamtsleiter for the same purpose who in disciplinary matters was also subordinate to the Reichsleiter but received his directions from the Gauamtsleiter. There was no office of this description on the Ortsgruppen level.

Described in more detail, the activities of the Gauamtsleiter for community policy included buildings, settlements, legal matters, the theater, music, professional training, civil servants and economic questions.

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Defense Counsel examined the witness on the use of the word "policy" with regard to the title of this office and whether it indicated that the office had any influence on politics. KOPPE said that a much better description would have been the "office for community problems" since it was merely a "professional office" and non-political. There were similar offices like the office for education and students' organizations.

Cross-examined as to what matters connected with local Government required the advice of his department, the witness said that the Gauleiter had the right to suggest names for leading municipal offices, such as the Mayor. Pressed on this point by the Prosecution he admitted that the Gauleiters were given considerable influence on local government by Law. He admitted that the Gauleiter appointed candidates who were favorable to the Party. He also said that pressure was almost always brought to bear on Blockleiters and Zellenleiters to fill such posts and that refusal would involve expulsion from the Party and other penalties (see page 1018 of the transcript).

THE DAF (DEUTSCHE ARBEIT FRONT - GERMAN LABOR FRONT)

THEO HUPFAUER who was a member of the DAF and later chief of the central office of the Reichs Ministry of Armament and war production, gave interesting evidence as to the independence of this organization from the political leadership of the party. HUPFAUER served in the DAF as an administrative officer from 1936 until 1944. The DAF was an adopted organization of the Party. It was part of the party organization but as far as personnel and appointments were concerned it was autonomous.

On the Reichs level there was a foreign office of the DAF; on the Gau level, a Gau administration and similar organizations on the Kreis and Ortsgruppen levels.

Within the various regional districts there were subordinate offices for public health, education, etc. The main connection

between the DAF and the POLITICAL LEADERS was that the higher leaders of the DAF, such as the Gau, Kreis and Ortsgruppen directors, held positions of equal rank within the POLITICAL LEADERSHIP CORPS. For instance, the leader of the DAF was a Reichs organization leader of the party. Not all the officials of the DAF were political leaders and in the central office those required to be so had to apply to the Party. It frequently resulted that of two people who filled the same functions, one was a Political Leader and the other was not. For instance, an assistant in a particular department could be a Political Leader but not his chief. Consequently some officials in the DAF fall within the charges preferred against the Political Leaders and others do not.

In his position as Chief of the Section of social administration of the DAF, the witness was charged with securing the cooperation of employers and employees on labor matters. He operated through workers commissions and sponsored social activities. He also administered problems of wages, working hours, prevention of accidents, labor law and general working conditions.

The directives that he received came from the leader of the DAF, Dr. LEY who in such cases was acting in his capacity as head of the DAF rather than according to his title of Reichs Leader. The witness said that only conferences in which leaders of the DAF took part were with LEY. They did not participate in regular Party conferences.

Asked whether membership in the DAF was forced upon the German workers, the witness said that this was not correct. It carried out recommendations made by the different associations to assist the workers in matters of wages, incapacity and insurance. It took over all problems resulting from the dissolution of the trade unions.

On cross-examination witness stated that on the staff of each Gauleiter, Kreisleiter and Ortsgruppenleiter there was a representative (Betriebsobman) of the DAF whose duty it was to

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assist the Political Leader in his contacts with the DAF.

KREISWIRTSCHAFTSBERATER (KREIS ECONOMIC ADVISOR

KARL ENGELBERT said that he filled the position of economic advisor to a Kreisleiter in Cologne from 1937 to 1945. The Kreis economic advisors were selected from indsutry and trade. Some were civil servants concerned with economic matters. The office was under the jurisdiction of the Kreisleiter and directives were received from a Gau economic advisor on the Staff of the Gauleiter. He in his turn received instructions from either the Gauleiter or the deputy of the Fuehrer (see pages 1127-1128 of the transcript).

The duty of the official in question was to act as counsellor to the Kreisleiter and his fellow citizens in all economic matters. People came to him for information regarding taxes. Monthly economic conferences were held with the members of industry, trade and the DAF. The witness did not participate in the monthly conferences which the Kreisleiter held with his political advisors. In fact, his only connection with the Kreisleiter was to advise those who were sent to him by the Kreisleiter and inform him on economic matters. Other than that he received no orders from the Kreisleiter (see page 1130 of the transcript).

It was not correct to call Kreiswirtschaftberaters political leaders in the full sense of the word. They had no concern with political questions. He agreed, however, that it was true that any such office holder was called a political leader in the terminology used by the Party (see pages 1131-1132 of the transcript).

STUDENT AND UNIVERSITY ORGANIZATIONS

The witness on this subject was DR. KARL FRANS CHUDOBA. He was until the end of the war Rector of the Friedrich Wilhelm University at Bonn. He was a member of the Party.

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He said that before 1933 there were various student organizations and associations of University professors and lecturers. From 1926 there had been a National Socialist student organization, the Deutsche Studentenbund. Another student organization within the framework of the party was the Dozentenschaftbund. There were officials of these organizations in each university town. For instance, there was a local student fuehrer and a local Dozentenschaft fuehrer (local teachers leader). These officials, however, belonged in no way to the leadership of the Party. If there was more than one university in the Gau there were Gau student leaders and teachers leaders and at the head there was a Reich leader. There was no organizational link between the Gau teachers and the Hoheitstraeger, (i.e. the Gauleiter) and in no sense could these persons be called staff officers of the Gauleiter.

Witness admitted that the students organizations were shown in the Organization Book of the Party as being attached to the staff of the Gauleiter. He said, however, that the Organization Book does not indicate these organizations in bold type implying that they did not hold office on the staff of the Gauleiter. They were, however, subject to the Gauleiter from a disciplinary point of view, otherwise they were entirely independent.

Witness denied that there was any training done by student groups, although the Organization Book, Page 260, stated that it was the task of the NS Dozentenbund (teachers association) to train university professors and lecturers in National Socialism philosophy. He said that there was a discrepancy between the Organization Book and the facts.

Cross-examined, Professor Chudoba said that the representative of teachers association was requested to report to the Gauleiter on the political and scientific views and qualifications of the student body. He also advised what appointments should be made. This was in accordance with paragraph 26 of the civil service law and not a party matter at all. Candidates for offices had to be approved by either a state or political office. Pressed

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as to whether the question was not really one of the political views of the candidates, witness would only admit that as Rector of the university he reported whether people were party members or not.

AUSLANDSORGANIZATION (FOREIGN ORGANIZATION OF THE PARTY)

The witness called by the Defense on the subject was GRAF VON ROEDERN who was personal assistant to Gauleiter BOHLE who was chief of the foreign organization from 1943 to November, 1944. Since the Auslandsorganization is fully described in evidence given before the Tribunal by BOHLE starting at page 6447 of the English transcript, it is not proposed to describe his evidence in detail here. The Commissioner during the hearing pointed out that most of the matters connected with the Auslands-organization had been very fully covered before the Tribunal when the affidavit of the witness BOHLE was read.

He said BOHLE had repeatedly asked that Political Leaders belonging to this organization should not be used for counter-intelligence work. BOHLE made arrangements with CANARIS, Chief of the counter-intelligence department that those taking part in counter-intelligence should be dismissed from the political service.

Asked in cross-examination why if the Auslandsorganiza-tion was perfectly harmless, it was closed down in Holland, dis-solved in America and had its representatives deported from England, the witness said that he thought the respective govern-ments of these countries were afraid that the organization would became an espionage service. He admitted that some members of it were in the service of the SD and in the counter-intelligence service.

Further cross-examination was waived on the grounds that the material to be found in the cross-examination of Gauleiter

BOHLE would render the evidence of the witness cumulative. (See Page 3 of the summary of evidence of GRAF VON ROEDERN already distributed).

CENTRAL ADMINISTRATION OF THE PARTY

(PARTY TREASURER)

The witness RICHARD MUELLER held office in the Central Bureau of the Party. He said that the chart contained in the Reichs Organization Book, Page 1893, was not in accordance with the facts. He referred in particular to the treasurer of the Party. He said that the Party administration was an organization on its own within the structure of the Party and its competence included associate organizations. The treasurer of the party was, therefore, the chief not only of the finance offices of Political Leaders but also of the so-called "militant" organizations. By this he meant the SA, the ALLGEMEINE SS, the NSKK and the HJ.

There were finance offices on the Gau, Kreis and Ortsgruppen levels. The persons who held these offices were professionally trained individuals from industry or the civil service. Several positions were held by people who were not party members. People employed within the treasurer's office were usually unpaid and honorary workers but witness was unable to state the percentage.

He denied that although they were given the rank of Political Leaders the treasury officials had any political responsibility.

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PART II.

DEFENSE OF THE POLITICAL LEADERS AGAINST THE CRIMES WITH WHICH THEY ART CHARGED UNDER ARTICLE VI OF THE CHARTER

I. AGGRESSIVE WAR.

In describing the various meetings held by Gauleiters, Kreisleiters and Ortsgruppenleiters all the witnesses denied that the subject of aggressive war was ever mentioned.

II. INTERFERENCE WITH CHURCH ACTIVITIES

All the witnesses stated that within their districts POLITICAL LEADERS enjoyed complete freedom of conscience and worship. It was admitted that there was a conflict between religious and political organizations but steps were taken by the POLITICAL LEADERS to lessen this conflict.

MEYER-WENDEBORN stated that he strenuously opposed the 1936 decree requiring the removal of religious emblems from school rooms. He also opposed the decree of the Reich Security Main Office which forbade the saying of early Mass on mornings after air raids. As a result of his efforts these prohibitions were lifted.

It was admitted by VON LOEDTRN that a number of party leaders were hostile to the Church, but he denied that the higher leaders of the party decided on a complete elimination of the Church and the substitution of Nazi principles for spiritual ideals.

Gauleiter BOHLE, chief of the foreign organization, issued an order forbidding political leaders and Germans living abroad to discuss church problems.

MOHR said that DARRE issued an order to the effect that farmers' leaders were not permitted to leave the Church without resigning from their party offices first. In 1940, however, he issued a further secret order suspending this (see pages 1439-

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1440 of the transcript). In this connection witness denied knowledge of Document D 75, a letter from the Chief of the Party Chancellory to the Gauleiters, instructing them to "eliminate the church from German Society".

KUEHL, referred to Document D 901 by the Prosecution, said that the area of Germany referred to was one where the religious movements were sharply critical of Nazi measures. This document mentioned that when a person leaves the church he has different taxes imposed on him and that a pastor "should receive a rap on the knuckles". Witness explained that when a person resigned from the church some taxes were remitted.

Another case was referred to where the Kreisleiter had reported a clergyman to the SD who had attacked the Nazi system from the pulpit. Witness emphasized that any ordinary citizen would have been at liberty to make a report to the GESTAPO or SD of what he had heard at a church service.

Witnesses denied knowledge of Document PS 070, USA 371, requiring that crucifixes be removed from the churches and the elimination of morning and evening prayers.

III. CONCENTRATION CAMPS.

According to Gauleiter WAHL concentration camps were established by the SS who provided supplies for the prisoners interned. The POLITICAL LEADERS had no part in their administration and as a general practice were not allowed to visit them except by special permission of HIMMLER. This witness claimed to have opposed the maintenance of concentration camps and expressed this view to HITLER himself.

The witnesses, including the Ortsgruppenleiters, denied receiving directives regarding the detention of political opponents. There were cases, however, in which POLITICAL LEADERS obtained the release of prisoners from the camps.

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IV. ATTITUDE OF POLITICAL LEADERS TOWARDS THE JEWISH QUESTION. THEY WERE INNOCENT OF PERSECUTING THE JEWS

Questioned with respect to Point 4 of the Party Program dealing with the unequal distribution of Jews and anti-semitism under which no one could be part of the German Volk who was not entirely of Aryan blood, HIRT admitted that this was unfair discrimination against the Jews. He claimed that the decent elements among the German people did not want any part in such discrimination. However, after HITLER came into power no individual had any power to resist this policy. Such resistance would have meant they would have been thrown into a concentration camp.

He denied that Gauleiters participated in the measures against the Jews or carried out instructions that they should wear yellow badges and have their property confiscated. KUEHL said that Political Leaders in his district did not know of any of the intentions of the Reich Leaders with respect to the solution of the Jewish problem. On the basis of the Party program they believed this problem could be solved legally by immigration. He had never heard of the term "final solution". The Party Leaders were in no sense responsible for the deportation of Jews.

ENGELBERT was asked whether he knew of Document PS 3051, US 0520 dated November 10, 1938. This was a telegram to all state police officers in which it was ordered that GESTAPO officials cooperate with Political Leaders in arranging the anti-Jewish demonstrations at that time. He and other witnesses denied that any advance notice of the demonstrations was given to local Political Leaders.

With regard to HEYDRICH's order on the same subject to the Chiefs of the State Police that they were to contact all local Gauleiters and Kreisleiters for a joint organization of demonstrations, MEYER-WENDEBORN said that he did not believe

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HEYDRICH had any power to order the Gauleiters to do such things. He could offer no explanation as to why the Police should contact the Political Leaders. The Document referred to is PS 051, US 520.

Other witnesses denied the existence of any organized Jew baiting by Political Leaders. They said that they had not heard of a letter dated June 3, 1933 from the Gauleiter of Coblenz addressed to the Kreisleiters which ordered them to set up a committee for such activities, and that the Ortsgruppenleiter should set up secret sub-committees. It was alleged that these committees were to report the names of anyone who bought goods from the Jews.

V. LYNCHING OF ALLIED AIRMEN

Gauleiter WAHL admitted to having received orders from BORMANN, GOEBBELS and HIMMLER on the treatment of Allied airmen. This directive provided that participants in lynchings of Allied flyers should not be punished. He said he did not transfer or execute these orders. It was generally believed by most decent people that Allied airmen should be well treated since they were soldiers. WAHL said that his district was heavily attacked but he knew of no case of ill treatment of Allied airmen.

Gauleiter KAUFFMANN of Hamburg claimed also to have issued counter-orders in his Gau to the BORMANN directive.

VI. TREATMENT OF FOREIGN WORKERS

Various documents were put in by the Prosecution showing that decrees were sent to the Political Leaders relative to the harsh treatment of foreign laborers. WAHL said he knew of certain decrees regarding the harsh treatment of Polish laborers but generally they were not treated any differently than other foreign workers. In fact SAUCKEL issued innumerable orders that they were to be well treated. Document D 884A, a letter dated

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in 1944 from the Gaustabsamtleiter of Baden regarding abortions to be carried out on foreign women workers was also introduced. All the witnesses deplored this order and denied having carried it out.

MOHR claimed that the allotment of foreign labor was handled by the Reich manpower office and their living arrangements by an official of the Reichs Naehrstand. He said he heard complaints from both sides but in proportion to the immense number of persons employed, they were very few. He said that where foreign workers were employed on farms they were practically always accepted with the farmer's family and were treated like any other employee. He knew of instructions which prohibited foreign laborers from entering restaurants and which gave the employers the right to punish them but most of the time these orders were not passed on by his office because he knew quite well they would not be observed in farm districts. Other witnesses said that similar directives were ignored in their districts.

WEGSCHEIDER said that he received a directive from the Ortsgruppenleiter to the effect that foreign workers were to eat at separate tables and were not to use bicycles. This directive was also ignored. The main contention of the defense seems to be that it was not practicable to carry out orders for harsh treatment. WAHL said that officials were attached to his staff whose job was to report bad conditions.

VII. ATTITUDE OF POLITICAL LEADERS TOWARDS THE PARTY PROGRAM

HIRT, a Blockleiter of Nürnberg was questioned at some length regarding the Nazi party program. He said that no right thinking German could have any idea that Point I, the union of the German people into one nation would be obtained by criminal means.

With regard to Point 2, the Versailles Treaty, he said that

the Blockleiters believed it was natural for a vanquished people to try to ease the harshness of a peace treaty.

Point 3 of the program relating to Lebensraum he interpreted as a demand for colonies which had belonged to Germany prior to the First World War. He thought there was nothing aggressive about this claim.

He was also asked for the view of the Blockleiters of HITLER's action with regard to Poland and his declared intention (Document L 221 - USA 317) to incorporate into the Reich the Crimea, the Baltic States and other eastern territory. He remarked that the Block and Zellen Leiters had been informed that the struggle of the German people was for their very existence. They had no thought of conquest or settlement in foreign territories. Block and Zellen Leiters had no idea of any plan for aggression or conquest and the war was represented to them as being defensive. (See Page 1035 of the transcript).

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PART III

KNOWLEDGE OF CRIMINAL ACTIVITIES

Various witnesses stated that they were acquainted with HITLER's order that each individual should only learn as much information as was necessary for the fulfillment of his particular function.

The Kreisleiters, for instance, testified that on the basis of this order a Political Leader on the Kreis level could not possibly have had any knowledge of preparation for the war. None of them entered concentration camps and the subject was never discussed at their meetings. The Army was directly responsible for prisoners of war questions and did not involve the Political Leaders.

The witnesses admitted that they knew of the existence of Document D 884 referred to, concerning the abortions practiced on foreign female laborers. KUEHL, however, said that such abortions were permitted only if the woman herself signed an application for one. It was agreed that party officials received information copies of this directive. Far from persecuting or ill treating foreign workers the witness as Kreisleiter and Ortsgruppenleiter received directives from SAUCKEL which requested decent treatment and rations for foreign labor and he was active in enforcing such regulations. KUEHL said that he knew of cases where policemen and other persons were punished for cruelties towards foreign workers. (See paragraph on foreign workers above.)

Witnesses for the Political Leaders denied any knowledge of euthanasia or "mercy killings". They had not heard of the order given by HITLER to Reichsleiter Buehler and Dr. Brandt which allowed a certain group of doctors to carry out "mercy killings". (See page 1043 of the transcript).

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PART IV

EVIDENCE OF VOLUNTARY OR COMPULSORY MEMBERSHIP AMONG THE POLITICAL LEADERS

Witness WAHL said there was a decree of 1941 or 1942 which provided that party members who refused to take over a party office were to be subject to trial by a party tribunal. This witness testified that he thoroughly disapproved of the party leadership's attitude and was often on the verge of resigning his office. He felt, however, compelled to retain his office for fear of the consequences.

SCHNEIDER (See Page 1397 to 1398 of the transcript) said that he was appointed to the position of Zellenleiter by his Ortsgruppenleiter without having been given any previous notice and without consultation as to whether he wanted the position.

Every party member was obliged to cooperate in this manner. If a man, for instance, who had a good job in the civil service or in private employment refused to serve in the party, his action would have been considered sabotage against the State.

WOLF said that it was permissible for civil servants in certain cases to resign from the Party but this would of course have meant that a civil servant would lose his job.

With regard to the DAF, HUPTAUER said that membership in the Political Leaders Corps on the part of DAF officers was contingent on an application made to the party chancellry on their behalf. This was usually made by the higher DAF officers. Members did not join the party of their own free will. The same rules applied to the Foreign Organization and to other affiliated organizations.

In contrast to what has been stated above, MEYER-WENDEBORN said that most Political Leaders occupied their offices voluntarily, particularly the Blockleiters and Zellenleiters. These were appointed by the Ortsgruppenleiter after discussion with his

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staff. If, however, a person considered himself unable to perform the duties he could decline. Thus there was no question as to whether acceptance of office by Zellenleiters and Blockleiters was compulsory or not (See pages 598 to 599 of the transcript).

In complete contradiction to what had been said by other witnesses, MEYER-WENDEBORN went on to say that if a man could say he was unable to take care of his profession or his family as a result of the cares of office, he could request release from his party duties. This was usually granted. The question of resignation was really one of the sense of responsibility of the official concerned.

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THE GESTAPO

The Defense called 12 witnesses who may be divided into four groups. The first group gave evidence regarding the structure and activities of the GESTAPO in Germany itself and in occupied territory. They also described the alleged legal basis of the GESTAPO. The evidence of the witness KNOCHEN for the SD should also be studied in regard to GESTAPO activities in occupied territory. These witnesses were:

DR. WERNER BEST who was from 1936 to 1940 Ministerial Director of the Security Police in the Reich Ministry of the Interior and later Reich Plenipotentiary in Denmark. He was the author of the book "The German Police", frequently referred to by the Prosecution.

KARL HEINZ HOFFMANN, who was in charge of the division of the GESTAPO concerned with Western European questions and after 1943 Chief of Amt IV of the Security Police in Denmark.

FRANZ STRAUB, who was commander of the Security Police in Belgium from 1940 to 1943 and afterwards criminal director there until the German retreat in September, 1944.

The next group of witnesses gave evidence as to the activities of GESTAPO branch offices in different districts of Germany:

WALTER ALBATH, Chief of the GESTAPO in Königsberg from 1941 to 1943 and later Inspector of the Security Police and SD in Wehrkreis (Düsseldorf) until the end of the war.

LUDWIG OLDACH, Chief of the GESTAPO in the Mecklenburg District from 1933 to 1945.

The third group gave evidence on the closing by the GESTAPO of unauthorized concentration camps belonging to the SS and the SA and other disciplinary matters. They also described the connection of the GESTAPO with the events of November, 1938 and the so-called "Action Zeppelin" (segregation of Russian PW's).

GUENTHER JOEL of the Reich Ministry of Justice from 1933 to 1943 and later attorney general of Westphalia.

HEINRICH VITZDMANN, Chief of Police and GESTAPO in Königsberg from 1936 to 1939 and later Police President.

WILHELM GRUENWALD, who was from 1943 personal representative of the Inspector of Security Police and SD in Braunschweig.

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The fourth group gave evidence concerning the transfer of subsidiary organizations into the GESTAPO, the compulsory character of membership in the GESTAPO and the status of administrative personnel within the organization.

JOHANN HEDEL of the Technical Information Bureau of the GESTAPO in Munich.

OTTO SOMANN, Chief of the Security Police in Wiesbaden, 1943 to 1945.

WILHELM JOHANN KIRCHBAUM, Chief of the Military Police in Obersalzberg, 1940 to 1945.

HANS TESMER, Attorney of the Gestapo in Berlin from 1936 to 1945.

From statements made by Counsel it would appear that in calling these 12 witnesses, the Defense seek to prove:

1. The GESTAPO was a State police organization similar to the police systems to be found in other countries.

2. Its activities were based on legal decree. It acted within the German penal code to prevent political crimes and to maintain the security of the State.

3. The GESTAPO had disciplinary authority over the Party. It supressed illegal concentration camps and other abuses. It endeavored to maintain order during the events of November, 1938.

4. The Border Police and the Security Field Police and other subsidiary groups were compulsorily transferred to the GESTAPO together with a number of civil servants and administrative officials. Administrative personnel had no executive powers and none of these groups could have protested against their transfer without fear of disciplinary action.

5. Knowledge of the activities of the EINSATZGRUPPEN, conditions in concentration camps and other alleged atrocities was limited to a very small circle of GESTAPO officials.

The following is a summary of the evidence taken on behalf of the GESTAPO. It may be convenient to the Tribunal to consider it under the following heads:-

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A. Activities Relating to Article 6 of the Charter.

I. Origins and Development of the GESTAPO from 1933.

II. Its Activities and Organization in Germany.

III. Its Activities and Organization in Occupied Territory.

IV. Its Connection with Concentration Camps.

V. Its Defense against the Charge of Third Degree Interrogations and Brutality.

VI. Its Connection with the Deportations and Liquidation of Jews.

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B. Evidence of Voluntary or Compulsory Membership.

I. Transfer of Civil Servants and Administrative Officials to the GESTAPO

II. Compulsory transfer of the Field Police to the GESTAPO

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IV. Other Organizations Affiliated to the GESTAPO

C. Knowledge of Criminal Activities.

I. Knowledge of the work of the EINSATZGRUPPEN and of Conditions in Concentration Camps.

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A

I. ORIGIN AND DEVELOPMENT OF THE GESTAPO

Most of the evidence on this subject was given by DR. WERNER BEST, until the end of the war German Plenipotentiary in Denmark. He published in 1940 a book called "The German Police" which described the organization of the Security Police. BEST, who was a lawyer and professional civil servant, held various positions in the Reich Ministry of Justice and the GESTAPO office in Berlin. He claims to be an authority on the subject of the position of the GESTAPO within the German police system though his accuracy on some points is disputed by witnesses for both the GESTAPO and SD.

Creation of a Political Police Force.

Examined by Defense Counsel on the subject of his book, he said that in 1933 it became necessary to organize a political police force. Prior to 1933 there had been political departments attached to each police headquarters but no unified police authority. Before the Party came into power, the uniformed police had frequently been employed against the Nazis, and to protect them from reprisals witness organized in his district of Hesse a combined state and political police. This procedure was followed elsewhere. These new police departments were declared to be part of the National Socialist system. They were given authority with respect to members of the Party. This permitted employment of many professional policemen who would otherwise have been disqualified from belonging to the Party.

The legal basis of the police system of the National Socialist State was laid down by a decree of the Reich President dated 26 February 1933. The witness emphasized that the National Socialist idea of the State was purely authoritarian. This can be gathered from the laws of the 24th of March 1934 which gave the Reich Government power to issue laws. The morality of

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prosecuring political enemies must be considered in this light.

The Political Police: Prosecution of Party Officials.

The political police of the newly formed GESTAPO were employed to prosecute party members, and to avoid criticism were equipped with SS uniforms. From 1933 onwards they were used to discipline the Party. According to the witness JOEL (transcript page 1060) members of the party were pardoned by GOERING only for offenses committed in connection with the seizure of power by the Nazis. A special department was set up in the Ministry of Justice to deal with crimes committed by party members. These were mainly offenses of a purely criminal nature. The GESTAPO, however, were used for political crimes such as the case which led to the removal of Gauleiter and GESTAPO Chief STREICHER in Nürnberg (Pages 1061-1062 of the transcript).

Formation of the RSHA

The reason for the formation of the RSHA or Reich Security Main Office was that HEYDRICH, The Chief of the Security Police, desired that different organizations attached to him should be amalgamated. After this amalgamation took place, the different departments, according to witness, remained the same and carried out the same functions.

II. ACTIVITIES OF THE GESTAPO IN GERMANY.

General

1. According to DR. BEST the functions of the GESTAPO can be defined as (a) administrative, and (b) executive. The executive part included what might be called a "political" executive. This did counter-intelligence work as carried out by the Reich Security Police.

The administrative officials belonged to a category separate from the executive officials. They were engaged only in

office work and dealt with expenditure, accounting and other forms of administration. Further reference to their position is made by the witness TESMER in Paragraph B III of this report.

(i) COUNTER-INTELLIGENCE

The description of the counter-intelligence section of the GESTAPO by DR BEST is somewhat confused. It appears that originally the ordinary uniformed police had a counter-intelligence division attached to them. This work was carried out by specially assigned officials in the different provinces. After 1933 these officials were taken over by the GESTAPO. There was also a military counter-intelligence organization (Abwehr) which was independent. The GESTAPO organization dealt with individual cases of espionage while the military counter-intelligence ascertained the purposes of the enemy. These institutions kept each other informed of current developments. BEST estimated there were about 2,000 to 3,000 people in the original counter-intelligence police. He stated that up till 1940 every charge of treason against the State was transferred to the courts for trial.

(ii) PROTECTIVE CUSTODY

The witness ALBATH said that protective custody measures were employed under authority given in an order of the 28th of February 1933. In the beginning the GESTAPO did not carry out protective custody on its own initiative but only after complaint from the population, from the police, from state and Party officials or from the SD. After 1941 orders were issued allowing the GESTAPO to employ protective custody measured on its own initiative. The GESTAPO was instructed to take care of families of people who were taken into custody. (Transcript pages 964-967).

BEST also discussed the question of protective custody at some length. He said that there was an appeal against protective

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custody orders to superior authority such as the Fuehrer or the Minister President of Prussia. At the beginning of the war the GESTAPO had plans for a full examination of the question but this was never carried out. Both he and the witness JOEL (see transcript page 1062) confirmed that protective custody was based on decree. In principle the GESTAPO acted for the Ministry of Justice within the penal code and its actions were thus not arbitrary.

BEST summed up the position of the GESTAPO with regard to protective custody by saying that it was the duty of the GESTAPO to act as assistants to the state prosecutors to prevent political crimes. Protective custody was not the only police measure, nor was it the one most frequently applied.

Its Legal Basis

Both BEST and JOEL were cross examined on their claims as to the legality of protective custody. BEST in an article dated 1937 had stated that all attempts dangerous to the State were the responsibility of the political police. The expression "dangerous to the State" included situations which were considered a menace to the State, even though no overt act had been carried out. He was asked whether he would consider it criminal to put 20,000 people into concentration camps just because they were Jews. He evaded the question first by answering that this was a "non-police matter". He then stated that in a moral sense it was a crime but its criminality would depend on whether the orders of the Government that they should be arrested could be said to have the force of law or not. He insisted that so far as the executive departments of the GESTAPO were concerned, members of the Organization had no opportunity to avoid the execution of such orders.

JOEL admitted that there were cases in which the GESTAPO exceeded their functions in a manner that was not within the

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~~the~~ scope of the penal code. The offenders, however, were punished (see pages 1066-1067 of the transcript and Document PS 3751).

(iii) ACTIVITIES OUTSIDE THE SPHERE OF POLICE WORK

BEST stated that as time went on, the GESTAPO or individual members of it were ordered to take certain executive measures outside of their police duties. Such measures were for purely political purposes. As an example he quoted the employment of the GESTAPO to arrest the 20,000 Jews previously referred to in 1938. There were many similar orders given to the GESTAPO later on.

In cross-examination on this point, BEST was asked whether it was true that the basis of the GESTAPO's authority was the throwing of people into concentration camps without judicial proceedings and the use of third degree interrogation. He repeated that actions like the arrests of Jews were not police functions at all. He admitted in reference to an article that he wrote in 1937 that as long as the activities of the GESTAPO were consistent with maintaining HITLER in power, the GESTAPO had a free hand in matters of Political security. He insisted, however, that all such actions were based on orders and directives from the Government.

He was also reminded of a statement in his book that as long as the police carried out the will of the Government, it was acting legally. He replied that an order that did not come within the sphere of police work would not be included in this statement.

(iv) TRAINING OF GESTAPO MEMBERS

The attention of the witness BEST was called to a quotation on Page 109 of his book which states that members of the GESTAPO were trained in National Socialism and SS ideology. He

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replied that this was done to the same extent as in other state and civil service schools in Germany. He denied that training of the police was handled by the SS. He said that fully one half of the GESTAPO organization was composed of older officers who never received such ideological training although it had been HIMMLER's wish that the GESTAPO should receive instruction from the SS.

2. ACTIVITIES OF LOCAL OFFICES.

(i) WESTERN GERMANY (DUSSELDORF)

The activities of local GESTAPO offices were described by the witnesses ALBATH and OLDACH. ALBATH said that in 1934 he became inspector of the Security Police and SD of Wehrkreis 6 which comprised six districts: Aachen, Cologne, Düsseldorf, Arnsberg, Munster and Minden (see page 721 of the transcript). These districts were later reduced to four.

The tasks of witness as Inspector of the Security Police and SD comprised inspection of the offices of the GESTAPO, Criminal Police, Security Police and SD. In general the witness was charged with seeing that the decrees of the Reich Security Main Office were carried out and he also investigated alleged illegal activities among members of the GESTAPO. He tried to coordinate the work of the GESTAPO and SD. It was HEYDRICH's idea that the SD should be the General Staff and the GESTAPO should be the fighting troops of the Security Police. (Witnesses for the SD deny that the SD performed this function).

There was considerable friction between the SD and the GESTAPO. The witness stated that he was responsible to the Higher SS and Police Leader of Wehrkreis 6. He received no orders from the Gauleiters but as Reich Defense Commissioners they were entitled to issue orders to the GESTAPO.

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Protective Custody

On the subject of protective custody he said that it was possible for the arrested person to appeal to the Chief of the Security Police and SD of the district. Witness had several persons released that way. In the case of an appeal direct to the RSHA, the RSHA made the decision and where they themselves had originally ordered protective custody the appeal went to them (transcript page 969). GESTAPO officials were required to investigate every three months whether or not persons arrested on protective custody should be released. In the case of persons in concentration camps, the camp commander was asked to write a report to the RSHA regarding the behavior of the inmates. The GESTAPO frequently recommended the release of individuals but their recommendations were ignored by the RSHA.

(ii) EASTERN GERMANY (MECKLENBURG)

The witness OLDACH also gave a description of the functions of a local branch of the GESTAPO. OLDACH was in charge of both the GESTAPO and Criminal Police in Mecklenburg from 1933 until the end of the war. He had 15 civil servants employed in his department, all of whom were formerly with the State Police. Only four of the fifteen civil servants were party members prior to 1932 and a few joined the Party after that time. The administrative section of the Department was drawn from the Criminal Police, Regular Police and Gendarmerie.

He asserted that the transfer to a political police department was purely an administrative step so far as the civil service employees were concerned.

Duties of Local GESTAPO Offices.

As Chief of the GESTAPO witness said it was his duty to discover and investigate organizations or factions hostile to the

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State. His investigations included the possible criminal activity of the State and Party officials. He made reports both to the State and the Party on all major political matters. His department included the SD and was divided into sections which gathered information concerning (a) Socialists and Communists; (b) opposition to the National Socialist movement and other hostile activities; (c) Criminal activities of party members, freemasons, Jews and the Church; (d) Counter-espionage and foreign intelligence.

Chain of Command

His orders came from the RSHA through the Gauleiter who also happened to be Stadthalter of the Reichs Security Office. The Gauleiter received an oral report from him every two weeks. Typical subjects on which he was asked to report were espionage; the smuggling of foreign currency by high Party members; attempts by the landed aristocracy to establish a reactionary government; the anti-social conduct of estate owners and alleged Communists (see Page 754 of the transcript).

Sources of Information - Discipline of the Party - Prisons

The witness stated that the GESTAPO employed no information agents of its own but acted mostly on reports from local police leaders, the Party and the SD. The SD was, however, quite independent of his department. Relations with political groups and party leaders were not satisfactory. There were numerous cases of lawlessness among members of the Party. He gave instances of the prosecution of high SA leaders for embezzlement and of proceedings against SA men for assault (see pages 734-735 of the transcript).

The GESTAPO had no prisons of their own in his area. Prisoners arrested by them were brought to prisons run by the local police. Interrogations took place within the GESTAPO build-

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ing or at the offices of the local police. Witness denied that any tortures or abuses occurred during the interrogations. (Pages 737 to 738 of the transcript). Persons arrested were permitted to protest to the RSHA and in some cases these protests brought results.

III. ACTIVITIES OF THE GESTAPO IN OCCUPIED TERRITORY.

1. BELGIUM AND NORTHERN FRANCE.

During the occupation the witness FRANZ STRAUB was commander of the Security Police and criminal director in Belgium from June 13, 1940 until the retirement of the Germans in September 1944.

Formation of the Office of the Chief of the Security Police

In Belgium and Northern France police matters were first dealt with by a police group on the staff of the military commander. The executive work was carried out by the secret military police who were subordinate to the High Command. In July 1940 HEYDRICH at the request of the military commander sent 250 men to Belgium to form the office of the Deputy of the Chief of Security Police. In this office there were 90 members of the Security Police, 50 or 60 members of the SD together with other auxiliary personnel. The office as the Higher SS and Police Leader was instituted in Brussels in May, 1942 as the Supreme Police authority.

The office of the Security Police and SD took over the secret military police and as a result contained eight groups of 100 men each. It remained, however, under the jurisdiction of the military commander. Its functions were to make reports to Amts 4 and 6 of the RSHA. Orders of the RSHA were, according to the witness's opinion, first discussed with the military commander before being passed on to the Security Police. In cross-examination STRAUB stated that at first the secret field police (military) were used to carry out arrests and the Security Police confined

their activities to counter-intelligence. Later the secret field police became too busy and the Security Police gradually gained executive powers so that by 1944 it was contemplated that they should have full authority under a Higher SS and Police Leader.

The departments in the office of the Deputy Chief of the Security Police corresponded to similar departments within the RSHA. In Belgium and Northern France the Belgium and French police force worked in liaison with the Security Police through liaison offices.

Witness claimed that there was a general confusion in the minds of the public as to the nature of different GESTAPO organizations. Whenever a German police organization was referred to, it was usually called the GESTAPO which was held responsible for everything that happened. This confusion was aggravated by the fact that some illegal organizations used the name of the GESTAPO to carry out arrests and commit abuses.

Foreign Workers - PW's - Conditions in Prisons and Camps

The GESTAPO in Northern France and Belgium was not concerned with the recruiting of foreign laborers. This was handled by the deputy of SAUCKEL.

There were no prisoner of war camps in Belgium or Northern France. The "Nacht und Nebel" decree was carried out by the military courts and deportations under this decree were performed by the frontier police. In cross-examination the witness said that the "Nacht und Nebel" decree was only sent to the GESTAPO for information.

A long description of conditions in prisons in Belgium during the period of occupation was given by this witness, which is to be found on Pages 3 to 5 of the summary of his evidence already distributed. In brief the witness stated that the GESTAPO carried out no executions. These were ordered and

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carried out by the military. Third degree interrogations had to be specially authorized by his office and according to the witness, the Security Pol.. only carried out 50 such interrogations while he was in Belgium. The most severe measures authorized were manacling or beating with a stick. The number of strokes administered was limited and if more than ten were given, a physician had to be present. The allegation of torture cells attached to the security police offices is unfounded. The witness explained various French documents alleging torture by saying that there was no GESTAPO office at any of the towns mentioned. (See Document F 560, RF 305, Page 15, Document 560, RF 305, Page 19, Document F 571, RF 307, Page 27, Document UK 76 RS 329, Chapter 2). Witness firmly denied the charge made in the latter document, "we can actually say that no one arrested by the GESTAPO has escaped ill treatment". Witness asserted that the GESTAPO were professional policemen and that such excesses were quite outside their conception of police work.

Paris

Evidence as to the functions of the GESTAPO in Paris was given by KNOCHEN (see report on the SD). In Paris the composition of the office of the Security Police and SD was substantially the same as that in Brussels, various departments of the RSHA having opposite numbers in occupied territory.

KNOCHEN was asked about GESTAPO prisons and claimed that the GESTAPO had no prisons of their own in France. He also claimed that decrees like the "Bullet" decree and the Commando order were not carried out by the GESTAPO but by the Armed Forces. It was admitted that the GESTAPO were concerned in the preparation of lists of hostages in Paris.

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2. DENMARK

DR. BEST was from 1942 Reich Plenipotentiary in Denmark. His evidence, however, is for the most part, confined to a description of the structure and development of the GESTAPO as set forth in his book, "The German Police". (1940).

Formation of the Office of the Chief Of Security Police

The witness HOFFMANN was made Chief of the State Police in Denmark in 1943 and took over the GESTAPO office (Amt 4). He said that the GESTAPO played no part in any of the preliminary operations involving the occupation of Denmark. The German Plenipotentiary, DR. BEST, added about 10 or 15 men from the criminal and state police to his staff who had neither executive powers nor carried out intelligence work. These officials cooperated with the Danish police and the Danish Army continued to exist.

As a result of the increase in acts of sabotage GESTAPO personnel were increased to 40. In 1943 martial law was declared and the Danish Army was disbanded. Three hundred Danish nationals were arrested and the deportation of Jews was started. The highest police official in Denmark was the Higher SS and Police Leader who controlled the Order Police, the Security Police, the WAFFEN-SS and Danish SS formations. He had equal rank with the military commander and the Reich plenipotentiary. The office of the Chief of Security Police was organized in Denmark in 1943 and as in other occupied territories its departments corresponded to the different Amts of the RSHA. The GESTAPO received orders from the Higher SS and Police Leader through the RSHA and the Reich Plenipotentiary. The purpose of Department 4 (GESTAPO) of the Security Police was to protect the German Army and to prevent espionage regarding German military activity in Denmark. As chief of this department the witness had to cooperate with the Danish police.

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Supression of the Danish Police Force.

Efforts were made to use the Danish police in combatting sabotage and it was the practice of the German police to hand over Danish people to be tried by Danish courts.

The Danish police, however, proved untrustworthy and in December, 1943 the Higher SS and Police Leader dissolved them. It had been found that they were directly implicated in the resistance movement. A large number of policemen were deported to Germany. In order to avoid further bitterness engendered by this action, the GESTAPO managed to save Danish policemen over 55 years of age from deportation. They also arranged for the welfare of the families of arrested men and for the sending of Red Cross parcels to concentration camps.

THE GESTAPO also protested to the RSHA regarding counter-espionage measures which they thought were too severe and calculated to intensify the resistance movement. As a result the GESTAPO was excluded from enforcing these measures. HOFFMAN also claimed that the combined efforts of the GESTAPO persuaded the Reichsfuehrer SS not to deport the Danish Army to Germany.

3. NORWAY AND THE NETHERLANDS

Formation of the Office of the Chief of the Security Police

The organization of the Security Police in Norway and the Netherlands at the beginning of the occupation was under the Chief of the Security Police whose office was divided into departments corresponding to the Amts of the RSHA. In Norway there were special commandos of the Security Police and SD. The Security Police was, as in other countries, under the jurisdiction of the Higher SS and Police Leader of the RSHA and of the Reich Commissars for Norway and the Netherlands. The amalgamation of the different offices was carried out in Norway and the Netherlands in a

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fashion similar to that described in Denmark and their functions were about the same, namely to keep order and protect the German Army and its interests.

The Policy of Reprisals, Torture and Deportation Was Opposed by the GESTAPO

In cross-examination regarding GESTAPO activities in Denmark, Norway and Netherlands, the witness was not willing to concede that the burning of houses as a reprisal for sabotage actions was criminal. He thought it was "inefficient police work" and he maintained that the GESTAPO shared the view that only persons who had been proved guilty should be shot. When pressed he admitted that the shootings of hostages was criminal but maintained that was the type of thing which "we were fighting against".

His department opposed the Reich Commissar of Norway, Terboven, in his policy of torture and deportation. He said that the GESTAPO could not prevent the carrying out of an order saying that for every German killed a Dane should be killed or for every plant producing for Germany, one which produced for Denmark should be destroyed. These measures were not carried out by the GESTAPO. They emanated direct from HITLER as a result of a conference on the 30th of December 1943.

Confronted with statements concerning ill treatment and brutality shown towards members of the resistance, he said that he thought third degree interrogation was justified in a case where a resistance leader had organized the shooting of 50 German soldiers in the back. The case referred to was that of Colonel TIMROTH. He agreed, however, that the official who carried out the interrogation had gone beyond the prescribed limits in this case.

In Holland witness said that he knew that in 1942 and 1943 hostages were shot. Berlin protested against this shooting and

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no further hostages were shot. Witness was not then in Holland and was unaware whether they were carried out by the Security Police.

IV. THE GESTAPO AND CONCENTRATION CAMPS.

1. Concentration Camps in Germany

All the witnesses denied that the GESTAPO had anything to do with atrocities committed in concentration camps. The witness ALBATH in cross-examination denied that the GESTAPO carried out any mass executions. He did not know of HEYDRICH's secret orders No. 14 and No. 8 (USSR 14). These exhibits were shown to him to demonstrate that these orders were sent to all GESTAPO offices and that they were directed to carry out mass executions. Before carrying out executions EINSATZCOMMANDO leaders were to confer with the GESTAPO chiefs and executions were to be held outside the limits of camps "as quiety as possible".

The GESTAPO had no Responsibility for Their Administration

This witness also denied hearing of the Prussian order (21036 PS 2108) entitled "The GESTAPO Administers the State Concentration Camps". He said he was sure that this order was never carried out (Transcript pages 967).

BEST was shown Document 2109 PS, a law of the 10th of February 1936 which also attributed the administration of the State Concentration Camps to the GESTAPO offices. He said that this reflected HEYDRICH's wishes but was never put into effect because HIMMLER wanted to keep the concentration camp organization as it was, that is, immediately under himself. After 1937 concentration camps contained criminals who were sent there by the criminal police as well as individuals taken into protective custody by the GESTAPO. At the outbreak of war, the concentration camps held approximately 20,000 inmates, not over half of whom were political prisoners. BEST estimated that the total number

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of prisoners imprisoned in jails in Germany at that time was approximately 300,000, one tenth of whom had been sentenced for political crimes. According to his calculations, three times as many people had been sentenced for political crimes by the courts as had been incarcerated by the GESTAPO.

Conditions in the Camps - The "Bullet" Decree

In cross-examination BEST admitted that it was a common practice to put hardened prisoners into concentration camps together with political prisoners. He denied any knowledge of the allegation that hardened prisoners maintained discipline in the caps by means of brute force.

Describing conditions in the Mecklenburg area, OLDACH stated that in 1944 there were complaints that inmates of Ravensbruck camp who were working in factories were better fed than German wrkers. On investigation this was found to be true. (pages 741-742 of the transcript).

Questioned regarding the so-called Kugel or "bullet" decree, they explained that it provided for three groups in concentration camps: (1) unimportant persons who could be improved; (2) people who could be improved after local arrests; (3) hardened criminals who were completely anti-social. Witness understood the words "bullet decree" to mean that persons in Group 3 could receive a "chain and ball" (transcript page 744).

"The Action Zeppelin".

The witness WILHELM GRUENWALD (transcript pages 273-289) was interrogated concerning the so-called "Action Zeppelin". This was a project concerning the segregation of Russian prisoners of war. The witness was transferred to a section of Amt 6 of the RSHA called "Zeppelin" for this purpose. He never saw any written orders but he thought that the purpose of the operation

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was to get volunteer Russians to work as spies behind the Russian lines. At Buchenwald, prisoners were screened by teams working in the various camps. During the time that witness was at Buchenwald between 1500 and 2,000 prisoners were examined. The Russians who volunteered for this work received special treatment and extra food(Page 277 of the transcript).

The witness denied that the real intention was to execute these prisoners. He said that the great secrecy prevailing with regard to their training might have given rise to the rumors that they were executed. He expressed the opinion that the statement contained in Document PS 2542, USA 482, that there GESTAPO groups charged with selecting prisoners of war for execution, in reality referred to the field teams of "Action Zeppelin". These teams were made up of SD personnel as well as men from the GESTAPO. He said that the only connection of Amt 4 of the Reich Security Office with "Action Zeppelin" was that some men of Amt 4 were transferred to Amt 6 for the carrying out of the project.

Considerable controversy arose during the hearing of the Commission as to whether LINDOW, the author of the statemnnt in PS 2542, USA 482 (Paragraph 4 previously referred to) was confusing the segregation of prisoners of war for counter- intelligence purposes under Amt IV with the work of GESTAPO personnel attached to Amt VI in segregating prisoners of war for execution.

2. CONCENTRATION CAMPS IN OCCUPIED TERRITORY.

Denmark

In Denmark the GESTAPO received an order from Berlin requesting the deportation of arrested people to concentration camps in Germany. This was interpreted by the GESTAPO as applying only to those who under the existing regulations were to serve long terms in prison or who were guilty of capital offenses. The

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Security Police took part in the deportation of Communists (Document 666 RS 317), but these persons had been arrested by the Danish police at the outbreak of the German-Russian war.

HOFFMANN claimed that in 1944 the increased death rate in concentration camps forced the GESTAPO to draw the conclusion that conditions in German camps could no longer be considered satisfactory. As a result the GESTAPO tried to avoid sending people to concentration camps and established its own camps at Froslev. There were no concentration camps in Denmark.

On cross examination witness admitted that the Danish report that a total of 6,104 Danes had been sent to concentration camps or prisons in Germany was probably accurate.

Breendonk Camp, Belgium

The witness STRAUB gave evidence concerning the camp at Breendonk, Belgium. This camp was administered and guarded by a special commando staff of the Military Government. He denied the accuracy of Document 276 RF 239 which attributed the administration of the camp to the GESTAPO. On cross-examination he admitted that the GESTAPO visited the camp when there were inmates there whom they wished to interrogate. The capacity of the camp was not more than 500 people and compulsory labor was required of those who were fit to work.

During the winter of 1941 complaints reached the Military Government of ill treatment and conditions in the camp were investigated. The Security Police never interfered with its administration. The camp was used for the temporary detention of people who had committed crimes against the occupying power and people who were sent there for short terms of protective custody.

Shown Document UK 76 which gives a detailed account of deaths from starvation, shooting, hanging and brutality in the camp, witness denied any knowledge of this or that it had any connection with the GESTAPO (see page 4 of the summary of the evidence of STRAUB).

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3. UNAUTHORIZED CONCENTRATION CAMPS IN GERMANY

The witness JOEL and the witness VITZDMANN both gave evidence concerning the part played by the GESTAPO in the closing of unauthorized concentration camps. It appears that such camps were set up by the SA and the SS. The SA camp was at Wuppertal and the SS camp was at Stettin (see pages 146 to 147 of the transcript). Both these concentration camps were closed by order of the Ministry of Justice. JOEL said that acting on behalf of the Ministry he took part in their dissolution.

People were sent to these camps merely on the grounds of hostility to the Party. They were not given a trial and they were ill treated. The local Gauleiters participated in the installation of the camps. Those responsible for the Stettin atrocities received a sentence of ten years' hard labor. The whole affair shocked the Ministry of Justice since executions were reported in the newspapers of which they had not heard. Witness did not know the nature of the accusations but had the impression that they were not such as would warrant the death penalty.

The Vulkan Werft Camp.

The witness VITZDMANN also claimed to have played an important part in the closing of the Stettin concentration camp. In 1934 he complained to Berlin of the conduct of his superior ENGEL who was Chief of Police in Stettin and SS Oberfuehrer in Pomerania. ENGEL had established an unauthorized concentration camp at Vulkan Werft. The complaint was made on the basis of reports of the maltreatment of prisoners, especially Jews who had been imprisoned by ENGEL for refusing to hand over their money and property to him. The matter was brought to the attention of GOERING who was then Chief of the GESTAPO in Prussia (Pages 649 to 650 of the transcript). GOERING initiated an inquiry

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as a result of which ENGEL was removed and made Director of Garbage Disposal in Berlin.

VITZDMANN said that the persons convicted of ill treatment in these concentration camps were first sentenced to penal servitude and later executed on GOERING's orders on the 30th of June, 1934.

The GESTAPO incurred considerable displeasure in political circles for its protests against unauthorized concentration camps. All the GESTAPO officials who had made these complaints were transferred to other posts. VITZDMANN himself was transferred and refused membership in the Party.

On cross-examination VITZDMANN admitted that the Stettin camp personnel were executed in connection with the ROEHM PURGE by GOERING's orders and not as a result of their activity in the Vulkan Werft Camp.

V. DEFENSE OF THE GESTAPO AGAINST CHARGES OF BRUTALITY AND THIRD DEGREE INTERROGATIONS.

BEST said that he preferred to describe the so-called "third degree interrogations" as "severe interrogations". He did not hear of the decree which authorized this type of interrogation until sometime after it had been issued and he had once told HEYDRICH his scruples concerning it. HEYDRICH informed him that the measure had been approved by very high authority and similar methods were used in other countries. HEYDRICH told him that he reserved for himself the final approval of such measures in Germany and he would see to it that they were applied only in the most urgent cases. BEST was shown Document 1531 PS, US 248 which enumerated the severities of third degree interrogations. He remarked that the specified punishments in this document went further than the measures permitted by the German police. His office took disciplinary action against members of the GESTAPO and criminal police who committed excesses. He was, therefore,

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able to check whether the methods of interrogation employed were kept within reasonable limits. Offenses were punished by normal disciplinary measures and through the ordinary courts.

Authorization of GESTAPO Officials to Use the Third Degree.

In cross-examination BEST was shown a document which stated that the commander of the security police and SD was authorized to use third degree in Kracow. He said it was his impression that this type of interrogation was adopted in order to discover the underground movements in Poland which had come into being at that time.

Describing the use of third degree methods in Denmark, the witness HOFFMANN reiterated that third degree methods were based on a legal decree which authorized them. Disciplinary action was always taken against those concerned with excesses. In general, third degree was applied only when the saving of German lives required it. In this connection he instanced the use of such methods in order to find the whereabouts of arms and explosives belonging to the underground movement. The GESTAPO in general believed that other methods of interrogation, such as playing off political factions against each other, were much more effective than third degree methods. Third degree methods had to be approved by his head office and approximately 20 were allowed for Copenhagen (see reference to the case of Colonel TIMROTH).

The witness STRAUB said that in Brussels third degree was authorized by the Chief of the Security Police and SD. There were no more than 50 such interrogations during the time he was in Belgium though it is conceivable that some took place which were not authorized. (For the methods employed in Belgium see under heading "GESTAPO in Belgium and Northern France.)

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VI. PARTICIPATION OF THE GESTAPO IN THE DEPORTATION AND LIQUIDATION OF JEWS.

All the witnesses deny that at any time were they given for the extermination of the Jews although local branches received orders to take into protective custody Jews within certain age groups. This was after the middle of 1941.

ALBATH said that he received an order from the RSHA to the effect that judicial trial was no longer to be allowed to Poles, Jews and gypsies. He considered this order was proper because the Minister of Justice informed the Chief of the Security Police and SD that such trials which had formerly been held before the courts would now be held by the police.

The Eichmann Pogrom in Belgium and France.

With regard to the deportation of Jews, witness stated that this was under EICHMANN of the Reich Security Main Office. Evacuation from Belgium and Northern France was handled by Department 2 of the Deputy Chief of the Security Police. After May, 1943 matters pertaining to Jews, freemasons and the Church were transferred to Department 4 of the GESTAPO.

In Brussels there was a Jewish committee which was active in taking care of the personal affairs of those deported and which provided clothing and food supplies during deportation. The witness and his associates never discussed the so-called final solution to the Jewish problem.

The Security Police in Belgium did not confiscate the property or fortunes of the Jews. Confiscation of such property was dealt with by the Military Administration. The witness was informed that the transport of Jews was well conducted and that the Jewish Committee was instrumental in providing for the health and comforts of those deported. The Jewish Committee was allowed to open homes for children and sick people although this was a violation of orders issued by EICHMANN.

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The camp where Jewish people were transferred was at Mecheln. It was generally believed that they were held there with a view to being transferred for labor purposes in the East.

Deportation of Danish Jews

In Denmark orders to begin the deportation of the Jews were received from the Foreign Office and the RSHA in Berlin shortly after the institution of the office of Security Police in Copenhagen. The Security Police opposed this measure as they believed it would intensify the resistance movement. A representative of EICHMANN named GUENTHER arrived in Copenhagen with special personnel from the Order Police to carry out the operation. The GESTAPO took no part in this project other than to supply a small number of personnel to assist the Order Police.

The witness HOFFMANN denied a statement on pages 3521-3522 of the German transcript which reported that 8,000 or 10,000 Jews were seized and deported from Denmark. He estimated the number deported at 600. No seizure of Jewish property was carried out. Forcible entry of premises occupied by Jews was prohibited by the Security Police. Witness's interpretation of the final solution of the Jewish problem was as follows: First, emigration of Jews for labor purposes, and second, re-settlement in the East. He heard nothing of any intention to exterminate Jews until after Germany capitulated, although he admitted he had heard of individual pogroms being carried out in Russia and Poland.

Position of EICHMANN

With regard to the status of EICHMANN, EICHMANN was employed in Amt 4 of the RSHA but eventually had an office of his own in another part of Berlin. He participated in conferences but no mention was ever made of his duties. EICHMANN had originally come from the SD and had no personal contact with regular GESTAPO officials.

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The Events of November 10, 1938.

A number of witnesses were called to show that the GESTAPO had no direct participation in the Jewish pogrom of November, 1938.

HEYDRICH'S Conference at Munich

OLDACH said that on November 9, 1938 there was a meeting between the GESTAPO officials, officials of the SD and Inspectors of the Security Police and SD in Munich. He attended this meeting and heard HEYDRICH state that HITLER instigated by DR. GOEBBELS had ordered anti-semitic demonstrations with the death of von RATH as a pretext. HEYDRICH expressed his disagreement with GOEBBELS and his disapproval of the proposed activities. He stated that it was the duty of the GESTAPO to prevent the destruction of Jewish property (see Page 748 of the transcript).

VITZDMANN was also at this meeting and confirmed that HEYDRICH had said that police participation should be instigated to prevent destruction of property. GESTAPO officials present at the conference were ordered to return to their districts, to put an early end to the pogrom and in particular to prevent the holding of meetings.

Also present at this meeting was BEST who said that he was with HEYDRICH at his hotel on the evening of the conference and observed the latter's surprise when he saw synagogues on fire within 50 meters of the hotel. HEYDRICH appeared to be angry at the demonstrations.

Results of Demonstrations in the Provinces
HEYDRICH's Orders

OLDACH said that when he returned to Mecklenburg, which was his district, a teletype had been received by his deputy from HEYDRICH which was in opposition to what HEYDRICH had stated at the meeting. This teletype was referred to by the Prosecution as

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Document PS 3051. This is a teletype to all GESTAPO offices from HEYDRICH directing that the police were not to prevent the demonstrations. VITZDMANN explained this by saying that when HEYDRICH sent the teletype the synagogues were already on fire and that excesses had already taken place and he could not, therefore, issue orders to prevent what had already happened (see pages 652 to 654 of the transcript). OLDACH thought that this teletype had really been sent by HIMMLER (pages 748-768 of the transcript).

He admitted knowledge of an order of HEYDRICH dated the 10th of November 1938 to all police stations that they should arrest as many rich Jews as could be accomodated in the prisons, especially those who were young and healthy. These people were to be sent to concentration camps. He thought that the object of this order was to undermine the pogrom. The GESTAPO employees considered this order unjustifiable and in "contradiction to German law". Witness maintained that he disobeyed the order by refusing to send Jews to concentration camps. He did not know that 20,000 Jews had been arrested on November 10th and 11th but was willing to accept HEYDRICH's report that this was the correct number. As far as his own district was concerned he said that the Jews had been arrested before he returned to his district from the conference in Munich.

He was informed that GESTAPO officials did not know of the burning of synagogues in his area until after it had occurred. He did not consider the order which required the police to stand by and do nothing to prevent destruction as proper. He and his officials thought that its object was to stop further excitement among the population. He believed that the persons responsible for the rioting in Königsberg were SA men and Political Leaders.

OLDACH also said that the destruction of property in Mecklenburg was accomplished by SA and the Party.

STRAUB and other witnesses denied that the GESTAPO was concerned in the pogrom or that they knew anything about it. The

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general tendency on the part of the witnesses was to put the blame for the whole affair onto the SA.

VII. THE GESTAPO AND THE CHURCH.

The witnesses denied that the GESTAPO took part in the persecution of the Church. BEST said that he did not know of any organized fight of the Party against the Church although he admitted that there was anti-religious propaganda. In any case the GESTAPO did not aid the party in such activity although it did deal with cases of hostility against the State on the part of certain church groups. He said that so far as the Church revealed hostile political tendencies, steps taken against it were clearly within the jurisdiction of the GESTAPO.

Demonstrations against a Bishop Organized by the Party

He was shown Document 848 PS, US 353, concerning a demonstration organized by the Party against the Bishop of Rothenberg. This telegram was sent to the GESTAPO in Nürnberg-Furth. He insisted that this matter did not lie within the proper activity of the GESTAPO though he admitted that he himself transmitted the telegram to Nürnberg. So far as he remembered, he acted for somebody else on this occasion, probably HEYDRICH or HIMMLER. His attention was called to the fact that this telegram was sent from the GESTAPO office at Stuttgart to Nürnberg and to the fact that it was the Chief of the GESTAPO office at Stuttgart who had said, "I have to prevent any counter demonstrations".

OLDACH said that in Mecklenburg there was a tense situation with regard to church matters because members of the Nazi Party had attempted to oppose their ideology to the principles of the denominational and confessional churches. The witness,

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then Chief of the GESTAPO, attempted to safeguard the rights of the Church. Attached to headquarters was an SD man who was a specialist in Church matters, but witness denied that he had anything to do with him.

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B

EVIDENCE OF COMPULSORY OR VOLUNTARY MEMBERSHIP

Evidence was given that the GESTAPO was a civil service agency and its employees were subject to transfer without any prior notice, such as might happen to any civil servant. Administrative employees were bound to obedience when they were transferred to the GESTAPO. Refusal to obey such a transfer order would result in disciplinary action, particularly if the motives for refusing were political. There was no inducement to become a member of the GESTAPO through receiving a higher salary.

BEST said that he did not know of any instance in which a policeman was punished for failure to obey a transfer order. He thought that if this occurred the man would have lost his position and probably would have been tried before the courts.

Position of GESTAPO Officials in Occupied Territory.

In occupied territory members of the GESTAPO offices did not volunteer for such services. They were transferred there. Members of the secret military police who in 1944 were sent to Denmark and taken into the security police were drafted in accordance with emergency regulations. Other witnesses stated that the result of refusal to obey orders would have meant forfeiting of pension.

I. TRANSFER OF CIVIL SERVANTS AND ADMINISTRATIVE OFFICIALS TO THE GESTAPO

Evidence on this subject was given by the witness THOMER. He said there were two groups of civil servants in the GESTAPO, viz: administrative personnel and persons who carried out executiv or field work. The same division of functions applied to the police themselves. The function of administrative employees was

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to take charge of matters such as pay, clothing and food. The essential differences between the administrative and executive personnel was that the administrative personnel were under the laws of the Reich civil service but the executive employees were under the jurisdiction of the police.

Civil servants were transferred to the GESTAPO according to their qualifications. It was not necessary for them to be members of the Party or of the SS. They were transferred on temporary duty to the GESTAPO but this was changed later to an official and final transfer (page 2101 of the transcript). Civil servants could not protest against this transfer in accordance with the German civil service law. Disciplinary action would have resulted had they done so. Generally speaking, a request to be sent back to their old organizations was refused. It was, however, possible for civil servants, as in the case of other branches of the state and local administration, to voluntarily leave the GESTAPO. The witness said that he had not heard of any such cases.

Statistics of Civil Servants

Included in the category of administrative civil servants there were technicians, teletypists, assistants and secretaries. TESMER gave statistics for civil service employees as follows: When the GESTAPO was created about 70% of its personnel were from the civil service. As time went on the number of civil service employees became smaller and when the war came they formed about half of the total GESTAPO. With regard to the statistics of the whole organization he said that in 1933 there were 40 administrative officers, 200 executive officers and 70 other personnel in the main GESTAPO offices. In 1940 the GESTAPO had grown to 20,000 employees of which 1700 were administrative personnel, 11,000 were executive personnel and 8,000 others.

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Formal Incorporation of GESTAPO Members into the SS

The witness also said that certain changes took place within the GESTAPO in 1936 by which the various ranks of members of the GESTAPO and SS were equalized. Members of the GESTAPO were formally incorporated into the SS, as a result of which they were allowed to wear SS uniforms. The object of this order was the attempt to make the entire Security Police a uniform system. No immediate pressure was put on members of the GESTAPO to transfer into the SS. In fact it was stated that a large part of the GESTAPO requested that this should be done.

At the beginning of the war a number of employees were recruited on an emergency basis. These people received no prior examination as to their political views. They could not protest against their transfer to the GESTAPO. (See Page 2108 of the transcript.)

In cross examination TESMER said that he did not agree with DR. BEST when he said in his book that the GESTAPO and later the Security Police became part of the SS. He said that BEST should have pointed out that the GESTAPO and later on the Security Police needed experts and qualified personnel. He always attempted to maintain a group of qualified officials. The transfer of GESTAPO officials to the SS was only a formal one and merely involved the wearing of uniforms. Under a decree by which this amalgamation took place, personnel of the Security Police had to make written applications to join either the SD or the SS. This was ordered by the RSHA.

Both TESMER and the witness HEDEL of the Technical Branch of the GESTAPO who were concerned with communications, denied that administrative officials had executive powers of any kind.

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II. COMPULSORY TRANSFER OF THE SECRET FIELD POLICE TO THE GESTAPO

The witness who gave evidence on this subject was KIRCHBAUM, Chief of the military police in Obersalzberg from 1940 to 1945. The object of calling this witness was to describe the transfer of members of the secret field police into the GESTAPO during the war as a result of an emergency regulation. The American Prosecution objected that the evidence was irrelevant on the grounds that the transfer of the field police could in no way effect the "basic voluntary nature of the organization". The hearing of the witness was, however, allowed.

Functions of the Secret Field Police

The witness was a member of the secret field police. In 1942 the Reichsfuehrer SS required that the police be enlarged in France and he attempted to get the entire secret field police under his jurisdiction. The secret field police were originally a military organization. The witness had previously worked under Admiral CANARIS of the High Command. In 1942 the total number of Secret Field Police transferred from the Army to the security police comprised about 2500 men. The transfer was an arrangement between HIMMLER and KEITEL dated the 17th of December, 1942. All personnel were transferred as a unit together with any civil employees. There was no kind of selection. People born in 1917 or earlier were, however, not transferred. There was no possibility for the secret police to refuse the order and they would have been tried by court martial had they done so. Personnel transferred included drivers and telephone operators. Witness estimated that the total number of personnel transferred between 1943 and 1945 was somewhere between 5500 and 7500 men.

The secret field police was responsible only for occupied territory. They had no jurisdiction after 1942 concerning

civilian matters. They were interested in security matters within the Army and the prevention of attacks by civilians upon military installations or units. They were originally the counter-intelligence police of the German Army. After this transfer the counter-intelligence units of the secret field police worked exclusively with the Security Police. The remainder of the secret field police only concerned itself with military security.

III. COMPULSORY TRANSFER OF BORDER POLICE TO THE GESTAPO

OTTO SOMANN stated that he was inspector of the Security Police in Wiesbaden from 1943. He was in charge of the so-called "Zollgrenzschutz", the custom and border security police. His organization originally belonged to the Reich Finance Ministry. It was transferred by order of HIMMLER to Amt 4 of the RSHA in 1944 in spite of the protest of the Reich Finance Office. It appears, however, that customs police who patrolled lakes and rivers were transferred to the Order Police and not the GESTAPO.

Statistics of the Border Police.

The total strength of the Zollgrenzschutz in the summer of 1944 was about 54,000 men, about 25,000 of these came under the jurisdiction of the GESTAPO. The function of the Zollgrenz-schutz was to prohibit illegal entry or exit from Germany and to prevent propaganda from being smuggled in. There was no change in the functions of the organization as a result of its incorpora-tion, nor did they change their uniforms. The whole organization was transferred and individual members were not asked, nor could they do anything about the transfer.

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IV. OTHER ORGANIZATIONS AFFILIATED TO THE GESTAPO.

The Reichssicherheitsdienst according to BEST was a part of the Security Police only in the sense that it was financed through them and its employees had to qualify under civil service requirements. The chief of this department was not subordinate to the chief of the Security Police but directly under HIMMLER. Members of the Sicherheitsdienst were used exclusively as guards of prominent people. This organization came into existence in 1934.

BEST also described the so-called Abwehr Beauftragte, an organization for counter-intelligence in factories. Agents of this organization were originally selected by the military counter-intelligence but after 1938 by the GESTAPO. Their duties were to guard against sabotage. They were not members or employees of the GESTAPO but of the factories where they worked. In some factories these organizations had under them executive organizations such as the Werkschutz (works security) which could not be considered part of the GESTAPO.

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C

KNOWLEDGE OF CRIMINAL ACTIVITIES

I. KNOWLEDGE OF THE WORK OF EINSATZGRUPPEN AND OF CONDITIONS IN CONCENTRATION CAMPS

Einsatzgruppen

BEST testified that Einsatzgruppen were originally not attached to the GESTAPO but were mobilized for employment by the Wehrmacht. Later, however, they were attached to the chief of the Security Police. The witness believed that most GESTAPO officials were unaware of their activities. In general, GESTAPO officials did not realize that they were committing crimes in carrying out instructions of the Reich Security Office. They were professional civil servants who were doing their duty and nothing more. So far as the "Bullet" decree or Commando orders were concerned, most of the witnesses denied knowledge of them or that they were applied.

Concentration Camps.

In regard to the knowledge of conditions in concentration camps, ALBATH stated that sometimes inmates released from concentration camps had to report to GESTAPO officials and in this way the GESTAPO were able to get some information. He said that his subordinates who received such information did not give him the impression that atrocities were being committed. He admitted that the GESTAPO officials knew people arrested under orders of the RSHA were to be sent to concentration camps.

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THE SS

The Defense called the following persons as witnesses for the ALLGEMEINE SS, the WAFFEN-SS, the SS Main Office and a number of other groups:

A. THE ALLGEMEINE SS:

OBERSTURMBANNFUEHRER EBERHARD HINDERFELD, who was legal adviser to the SS disciplinary court in Munich.

HAUPTSTURMFUEHRER KARL HANS JOEHNK, a member of the Leibstandarte Adolf Hitler.

FREIHERR FRIEDRICH KARL VON EBERSTEIN, Oberabschnittsfuehrer (higher district leader) in Dresden and Chief of Police in Bavaria from 1937 to 1945.

SS OBERFUEHRER LUDWIG GRAUERT, State Secretary of Prussia.

HELMUTH KLUCK, Public Health Officer and Senator in Danzig.

B. THE ORDER POLICE AND SS REGIMENTS:

COLONEL OF POLICE JOHANNES ZUPKE, of the Personnel Department of the Order Police.

C. THE TOTENKOPFVERBAENDE (Deaths Heads Units) AND THE SS VERFUENGUNGSTRUPPE

SS OBERGRUPPENFUEHRER HANS JUETTNER of the Main Headquarters of the WAFFEN-SS.

GENERALOBERST PAUL HAUSSER, Commanding Army Group G on the WESTERN FRONT and formerly Inspector of the VERFUENGUNGSTRUPPE (see also under WAFFEN SS).

D. RIDING UNITS:

RUEDIGER VON WOIKOWSKI-BIEDAU of the Inspectorate of Riding in the SS Main Office.

E. THE SS MAIN OFFICES:

OBERSTURMBANNFUEHRER DR. NORBERT POHL (SS Main Office)

WOLFRAM SIEVERS, the AHNENERBE (Research)

SS STURMBANNFUEHRER JOHANNES STEIN (the WVHA or Economic and Administration Main Office)

SS OBERFUEHRER AND JUDGE GUENTHER REINECKE (Legal Department)

F. THE WAFFEN-SS

SS OBERSTURMBANNFUEHRER WERNER GROTHMANN, Adjutant to HIMMLER 1940 to 1945.

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JOACHIM RUOFF, Colonel in the Main Headquarters of the WAFFEN-SS.

SS JUDGE DR. BRAUSSE, Court Martial Officer.

PRIVATE FELIX SCHIEBLICH, Volunteer for the WAFFEN-SS.

SS STANDARTENFUEHRER DR. PETER LIEBRICH, Medical Officer in ALLGEMEINE SS AND WAFFEN-SS.

OBERSTURMBANNFUEHRER KARL GUENTHER MOLT, in charge of an SS (Junker) Training School.

SS OBERSTURMFUEHRER DR. HEINZ JOACHIM GRAF, Chief of the Interpreting and Interrogation Section of the WAFFEN-SS.

SS OBERSTURMBANNFUEHRER ROBERT BRILL, Deputy Chief of Recruiting Section of the WAFFEN-SS Main Office.

SS OBERSTURMBANNFUEHRER WALTER BLUME, also of the Recruiting Section of the WAFFEN-SS Main Office.

COLONEL OF THE WAFFEN-SS KARL ULLRICH, Commander of the SS Panzer Division Viking.

GENERALOBERST PAUL HAUSSER, Commander of Army Group G on the Western Front at the end of the War.

G. DEPARTMENT OF EICHMANN (Jews)

DR. EBERHARD VON THADDEN, Councillor in the German Foreign Office in charge of Jewish Questions.

OBERSTURMBANNFUEHRER DIETER WISLICENY OF THE JEWISH COMMITTEE of the Eichmann Department.

According to statements made by Defense Counsel and from an examination of the transcripts, the Defense seek to establish the following points in defense of the SS:

1. The SS was not a complete unit as described in the Indictment. Its various sections were independent and had no knowledge of each other's tasks. There was no direct cooperation between the SS, the GESTAPO and SD.

2. The development of the ALLGEMEINE SS from its formation does not indicate that it consisted of a group of persons intending to commit crimes. It was not an instrument of terror but primarily a well-disciplined bodyguard who maintained order at meetings. It is incorrect to say that it was an elite, aggressive assault troop of the party.

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3. The ALLGEMEINE SS played no part in the Roehm Putsch and the events of November 10, 1938. Administration of Concentration Camps was not their responsibility. Various units, such as the SS Riding Unit, Medical Sections and some members of the Order Police were transferred into the SS without previous warning and not on the ground of the political views of their members.

4. The Prosecution are relying on a chart showing the composition of the SS Main Offices and their relation to HIMMLER which is incorrect and liable to misinterpretation of the whole chain of command.

5. The Research Department (AHNENERBE) were ignorant of the experiments of Dr. RASCHER.

6. HIMMLER and EICHMANN kept their activities secret from all but a very narrow circle. The SS Legal Division were deliberately prevented from pursuing inquiries into atrocities in concentration camps. They did, however, punish a number of offenders among camp commanders and guards.

7. The WAFFEN-SS was primarily a military organization which fought under the direct command of the Army and was only under the SS Main Office for administration. It observed the laws of war and received special training to this end.

8. The ideological training of the SS as a whole was not such as would lead to the commission of the crimes mentioned in the Indictment.

9. The WAFFEN-SS were not responsible for the guarding of concentration camps. It was a deliberate deception on the part of HIMMLER to designate concentration camp guards as "WAFFEN-SS" who were drawn from other organizations.

This summary is divided into two parts:

Part One - The Organization and Duties of the SS

Part Two - Their Defense against Specific Crimes Alleged by the Prosecution

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PART ONE

ORGANIZATION OF THE SS

I. THE ALLGEMEINE SS

1. Origin and Development of the ALLGEMEINE SS

The purpose of the evidence given on behalf of the ALLGEMEINE SS is to show it was not in its origins an organization formed for the commission of crimes allged by the Prosecution. It was founded in 1926 with the primary object of protecting speakers at public meetings. Evidence was given that the employment of body guards by other parties such as those which belonged to the Social Democrats was quite frequent. In those days of political strife such precautionary measures were necessary.

After 1933 the ALLGEMEINE SS was mainly used to keep order and control the audiences at large meetings of the Party and was no longer used primarily for the protection of the speakers. Its members did not carry weapons and they were instructed only to fight in self defense.

It appears that the title ALLGEMEINE SS was not in general use until 1937. Previously there had been a distinction drawn between the regular Schutzstaffel (Guards) and the TOTEN-KOPFVERBAENDE or Deaths Heads Units who were the assault troops (See page 68 of the transcript, evidence of EBERHARD HINDERFELD).

The ALLGEMEINE SS were never considered as a military organization. The only drilling that they were taught was as part of their task of preserving order at meetings. They had various welfare and sport organizations such as motorcycle and riding units. Sport meetings were held to encourage international relations.

In cross examination HINDERFELD denied that the sport and social activities of the SS provided any particular advantage for the members over other members of society.

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It was contended that the ALLGEMEINE SS were always independent from the GESTAPO. The SD was merely an intelligence service formed by the Reichsfuehrer SS which worked for the Party as a whole and grew up independently of the SS. The same independence was true of the relations of the SS with the SA. In 1932 both organizations had been suppressed though this was later rescinded by VON PAPEN.

The witness GRAUERT was of the opinion that any criminal actions committed by these organizations during the days of HITLER'S rise to power were due to the disturbed state of the country at that time. Attempts were made through conversations with ROEHM, Chief of Staff of the SA, to combine the two organizations. This attempt failed and the SS were separated from the SA and put under HIMMLER. The witness considered that this was unfortunate since LUTZE, Chief of Staff of the SA after ROEHM, was a capable administrator and could have controlled both organizations in the best interests of the Reich.

The underlying reason behind this separation was HITLER'S distrust of the SA resulting from the Putsch of 1934 and his desire to divide its authority.

The general impression grew up in Germany that SS and SA men formed the staffs of the GESTAPO offices. This was not in fact so. The executive and administrative posts were held from the start by officials of the State Police. It was only the subordinate jobs that were held by SS and SA men.

During the war the ALLGEMEINE SS practically disappeared and most of its offices were closed down. At the beginning of the war there were 10,000 ALLGEMEINE SS but after 1943 only about 1200 remained, their principal task being to support SS welfare activities.

2. Discipline and Recruiting of the ALLGEMEINE SS

HINDERFELD said that before joining the ALLGEMEINE SS its members had to have character references and a certificate from the police. (See page 67 of the transcript.)

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The main motive for joining was the prevalence of unemployment in the early days. The newly joined members were impressed by the "defensive character" of the organization. The discipline was, he declared, excellent. Height, physical condition and a good social reputation were essential to acceptance. Persons convicted of crimes prior to their entry were either not accepted or dismissed. There was a six months to two year probation.

After 1935 the subordinate ranks were recruited on a local basis and local influences played a great part in the organization. Members had to buy their own uniforms and in the opinion of the witness, quite a number of people joined because they thought the uniform was smart (See page 89 of the transcript). A number of others joined in order to further their career in the Civil Service.

The large majority of members carried out their SS duties in addition to their ordinary professions.

In order to show that the goals and aims of the organization did not appear criminal to the members, the Defense emphasized the extent of the "comradeship" engendered. This comradeship was valuable because it broke down class distinctions.

There were a number of persons prominent in industry, science and medicine who were appointed honorary SS leaders by HIMMLER. In choosing such people, HIMMLER had no regard for their political views and frequently conferred this distinction on members of the nobility.

3. Training and Ideology of the ALLGEMEINE SS

The training was not military. Firing of small bore weapons was taught and athletic training in competition for SS or SA sport medals.

The racial teaching given to new members was with the object of furthering the ideal of a better German race. The destruction of other races was not taught. There was never any

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mention of preparation for an aggressive war although like all Germans, the SS considered that the Versailles Treaty should be revised. A peaceful immigration of the Jews was advocated.

Cross-examining HINDERFELD, the Prosecution referred to Document PS 199, US 170. The witness denied that anything in this document which referred to the shooting of members of the SA in June 1934 could indicate that the principle that murder could be justified, formed part of the teaching in SS schools.

The Prosecution quoted from PS 3051, US 240 and from a copy of the Organization Book of 1943, PS 2640, US 323. The Organization Book describes the duty of an SS man "to openly and unrelentingly fight dangerous enemies, such as Jews, freemasons, Jesuits and political clergymen." HINDERFELD'S reply to this was that the date of the book was 1943, a time when the ALLGEMEINE SS had become insignificant.

In re-examination he said that the words "combat or fight" did not mean physical combat. They meant discussion of "idealistic or world problems". (See Page 91 of the transcript.)

Many members of the ALLGEMEINE SS found out to their disgust that HIMMLER did not practice the code of honor which he preached. This included the duty of the SS to help "poor and defenseless persons".

II. THE SS AND THE POLICE

The witness GRAUERT described a gradual tendency from 1933 onwards for the police and the SS to become amalgamated under one head. In 1936 when HITLER became Chief of Police, it was intended that the two organizations should be responsible for the security of the Reich. The witness was always of the opinion that as a result no clear responsibility for police functions existed and that this was the cause of many subsequent disasters.

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1. The Higher SS and Police Leaders

The creation of Higher SS and Police Leaders after 1936 was part of the same trend. VON EBERSTEIN regarded this move as a "futile effort of HIMMLER to create a state security organization".

In practice the Higher SS and Police Leaders were supposed to act as representatives of the Reichsfuehrer SS and Chief of German police in particular areas. They could only make suggestions and had no jurisdiction over the police or WAFFEN-SS. The jurisdiction of the ALLGEMEINE SS was in the hands of the Higher District Leader of that organization, though evidence was frequently given during the examination of affidavits before the Commission that he was in many cases one and the same person.

The Defense alleged that the duties of Higher SS and Police Leaders were limited to attending official functions as the representative of HIMMLER and to insuring cooperation between the SS and police and party and state organizations. They had no disciplinary powers over the SS and police.

It was emphasized by other witnesses that the creation of the Higher SS and Police Leaders did not indicate any real fusion between the SS and police.

DR. NORBERT POHL of the SS Main Office said that they were incorrectly described by the Prosecution as superior officers of the SS. There does appear to have been an exception, however, to the rule that they could not give orders to the police since several witnesses have given evidence that they could do so in occupied territories (See evidence for the GESTAPO and SD concerning the police in France, Belgium and Denmark).

2. The Order Police (Ordnungspolitizei)

The Defense consider it important to distinguish clearly between the SS and police. It has already been explained that the Higher SS and Police Leaders could also be district leaders of the SS but these two functions remained separate.

H2740-0111

In his efforts to bring the police under his control HIMMLER seems to have conferred the title of SS on a number of different police organizations. There was, for instance, the so-called Police Division. This consisted entirely of policemen. Their status was never quite clear and eventually they became part of the WAFFEN-SS (See page 55 of the transcript).

The Order Police were treated in much the same way. ZUPKE, who was an official of the Personnel Department, said that prior to 1937 members of the police force were forbidden to join the SS or the SA. In 1937 HITLER at HIMMLER'S suggestion decreed that policemen could become members of the SS and wear the SS runic symbols on their police uniforms.

In principle, however, membership of the SS was forbidden to the police. Nevertheless, HIMMLER continued to confer SS membership on policemen. The policemen were never asked if they wished to be members but were merely informed that they would be accepted. HIMMLER regarded the membership as an honor and refusal to accept might have brought serious consequences.

The members of the Order Police who were also members of the SS performed no SS functions beyond attending a monthly inspection (See page 31 of the transcript). They held the same rank as they did in the police. ZUPKE estimated that about 50,000 policemen joined the SS. The Prosecution's contention that all new policemen were recruited from the SS is incorrect. It had been intended that the SS should furnish 3,000 men per annum to the police but this was never carried out. As a result recruits had to be found elsewhere.

In cross examination ZUPKE agreed that the decrees of HIMMLER do not suggest that the membership of the police in the SS was really compulsory. HIMMLER expected people to comply with his wishes and if necessary exerted pressure. It is claimed that HIMMLER distrusted the Order Police and did not confide in them.

H2740-0112

3. The SS Police Regiments

Little evidence was given concerning the SS police regiments. It is understood that the Defense are submitting an affidavit by General of Police von Bomhard on this subject.

ZUPKE described them as police units designated "SS Police Regiments" by HIMMLER if they distinguished themselves in their duties.

Members of the Order Police disliked this. Personnel of these regiments were only members of the SS insofar as they had been accepted for membership in the manner described. The police were never trained by the SS. They had their own schools and training (See page 37 of the transcript).

III. THE VERFUEGUNGSTRUPPE AND THE TOTENKOPFVERBAENDE (DEATHS HEADS UNITS)

1. The SS VERFUEGUNGSTRUPPE

The SS VERFUEGUNGSTRUPPE (Special Purpose Troops) were originally a bodyguard similar to the Leibstandarte Adolf Hitler. By an order of the 17th of August, 1938, Document 647 PS, USA Exhibit 443, the ALLGEMEINE SS, the TOTENKOPFVERBAENDE and the VERFUEGUNGSTRUPPE had their tasks clearly defined. The TOTENKOPFVERBAENDE and the VERFUEGUNGSTRUPPE became in effect state units whereas the ALLGEMEINE SS retained its party character. The VERFUEGUNGSTRUPPE were not meant to be a political unit and did not carry out preparations for war. According to HAUSSER they had no weapons, reserve officers or general staff. They were subject to the General Staff of the Wehrmacht only on questions of organization and training. The only thing that they had in common with other organizations was that they were under the leadership of HIMMLER. When they were first organized in 1933 they were recruited partly from the ALLGEMEINE SS and partly from young men due to be called up for military service.

In cross examination HAUSSER denied that the VERFUEGUNGSTRUPPE were trained to kill. As inspector he trained them to be

H2740-0113

soldiers and not murderers. He denied that their teaching included the destruction of so-called sub-humans and inferior races. Such "tremendous nonsense" was never part of their program.

2. The TOTENKOPFVERBAENDE and Concentration Camp Guards

The TOTENKOPFVERBAENDE joined with the VERFUEGUNGSTRUPPE to form the WAFFEN-SS in 1930. The TOTENKOPFVERBAENDE were originally concentration camp guard formations. In 1940 they were transferred to the WAFFEN-SS and the guarding of camps taken over by troops drawn from various sources (See evidence of BRILL, page 20 of this report).

HIMMLER transferred the guarding of camps to the WAFFEN-SS. According to HAUSSER these new guards were not really members of the WAFFEN-SS but people drawn from the Wehrmacht and other organizations. It was an intentional deceit to call them members of the WAFFEN-SS. JUETTNER said that it was generally stated that these guards had been "temporarily assigned" to the WAFFEN-SS.

IV. RIDING UNITS OF THE SS

WOIKOWSKI-BIEDAU said that so far as he knew all professional riding organizations received orders for their transfer into the SS or SA. There was no political reason behind the decision as to which organization was chosen. Such a decision was based on convenience according to the areas in which different types of horses were bred.

In cross examination he said that there was no special pressure on people to join although the groups were taken over in their entirety. The effect of refusal to do so would have been that people who owned horses could not take part in tournaments (See page 580 of the transcript).

The objectives of the organizations were non-military and activities were not used as propaganda. They only received the normal political training contained in the party pamphlets.

H2740-0114

(Affidavits submitted to the Commission deny that the SA or SS riding units bred horses for cavalry units in the Army or trained replacements.)

V. THE SS MAIN OFFICE

1. Composition of the Office

DR. NORBERT POHL who worked in the Main Office of the SS says that the chart produced by the Prosecution showing the 12 main offices of the SS as inaccurate. This is because on this chart a number of Departments are shown as united under HIMMLER which had nothing to do with the SS (See page 44 of the transcript). Only part of the offices described were really SS offices.

For example, the main offices of the SD, Police and Security Police were not SS offices though in practice HIMMLER was both Reichsfuehrer SS and Chief of the German police. The police authorities belonged to the state and not to the party. The offices which strictly comprised the SS are:

The SS Main Office (SS Hauptamt)
The SS Operational Headquarters (Feuhrungs-hauptamt)
The WVHA (Economic and Administration Main Office)
The Race and Settlement Office (Rasse und Siedlungshauptamt)
The Legal Office (SS Gericht)
The SS Personnel Office (SS Personal Hauptamt)
The Personal Staff of the Reichsfuehrer SS

POHL denied that there was any overall high command of the SS. He said that there also existed Heissmeyer's office for the repatriation of racial Germans (Volksdeutschemittel-stelle). This office and the personal staff of the Reichs-fuehrer SS could not give orders to subordinate units and their tasks were not strictly confined to SS matters.

The WVHA carried out administrative functions on behalf of the ALLGEMEINE SS, the WAFFEN-SS, the SS Main Office and all subsidiary groups of the SS except the SD. It was among other things in charge of supplying, training and education of the

H2740-0115

WAFFEN-SS.

2. Connection between the SS Main Office and the RSHA

POHL claims that the term "Reich Security Main Office" is misleading in implying that the term was a police agency alone. The police must be distinguished from the SS. It was the function of the RSHA to coordinate the police and the SD and the only connection between the RSHA and the SS was insofar as the SD had grown out of the SS.

Cross-examined the witness admitted that it was true to say that the SD was an independent part of the general organization of the SS. Various documents showing that the SD worked in close cooperation with the SS were referred to by the Prosecution in this connection.

HIMMLER'S statement that the SS offices must be considered as one "bloc" was really an attack on the WAFFEN-SS whom he distrusted and threatened to transfer to the Army according to JUETTNER.

3. The WVHA (Economic and Security Main Office)

The WVHA comprised the administrative groups effecting the whole SS. It had five subsidiary groups or Amtsgruppen A, B, C, D, and W. A and B dealt with the administration of the WAFFEN-SS, C with buildings and works and W with economic matters. D administered concentration camps. The whole organization was under Obergruppenfuehrer POHL but the Defense claimed that the Amtsgruppen operated independently of each other. For example, Amtsgruppe D directed by Gruppenfuehrer GLUCKS was stationed at Oranienburg and had its own administration and communications. Neither the WAFFEN-SS nor the ALLGEMEINE SS could give orders to it.

The witness STEIN claimed that in view of its independent position the work of Amtsgruppe D was always kept separate from the remaining groups. No personnel, for instance, were exchanged by the Amtsgruppe D and the other offices. The Staff of the group

H2740-0116

came from the TOTENKOPFVERBAENDE formations and personnel of the Inspectorate of concentration camps.

STEIN admitted in cross examination that although the other Amtsgruppen of the WVHA might not know the details of its work they were aware of its main responsibilities (See page 98 of the transcript).

4. The AHNENERBE (Research)

WOLFRAM SIEVERS was Reich Director of the AHNENERBE organization since its foundation on the 1st of July 1935. He was made an honorary member of the SS and assigned to the personal staff of HIMMLER. The AHNENERBE, which may be described as the "ancestral heritage institute", was a research foundation of which HIMMLER was a trustee. This was the only connection in which it could be said to be related to the SS. After 1942 it became a department on the personal staff of the Reichsfuehrer SS.

The primary object of the institute was scientific research of the cultural history of European nations. SIEVERS denied that it was used to make propaganda about so-called Nordic races. Research scholarships were endowed, expeditions carried out and libraries built. The funds were acquired from state endowments.

Another witness who was connected with the AHNENERBE was GRAF who subsequently became Chief of the Interpreters Section of the WAFFEN-SS. Both these witnesses said that the scientists employed in the organization filled honorary SS ranks. It was not, however, obligatory to join (See page 925 of the transcript).

The Defense tried to establish that members of this department did not know of the experiments alleged to have been carried out by Dr. Rascher. SIEVERS said that the department managed by Rascher did not belong to the AHNENERBE but to the institute for military scientific research. This institute included biological, military, scientific research, mathematical and gynaecological departments. In order to avoid expense HIMMLER amalgamated the

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military institute with the AHNENERBE so that the latter might procure the required funds and materials. The military institute was directly subordinate to HIMMLER and not to the AHNENERBE.

SIEVERS estimated that the administrative work of Rascher's department constituted about two to three percent of the administration of the entire AHNENERBE. No one in the AHNENERBE had any influence or authority regarding the execution of Rascher's experiments and the work of his section was secret. SIEVERS asserted that Rascher had told him that he received more volunteers for these experiments than he needed and that inmates of camps who had volunteered were in some cases released from internment.

5. The Race and Settlement Office

FRITZ SCHWALM who belonged to the so-called racial and settlement office from 1934 said that the chart of the organization submitted by the Prosecution, known as SS Exhibit 1, was open to misunderstanding. The fifth main office is described as the "Race and Settlement Office" but there is also an office subordinate to it described as the re-settlement office. In fact there was no such thing as a re-settlement office within the main office from 1934 to 1945. (It should be noted, however, that a re-settlement office is marked under the Race and Settlement Office in the chart submitted as Defense Exhibit No. 1.)

What actually happened was that the education office of the SS was transferred to the main office and took over the problems of the re-settlement of racial Germans and combined this problem with the education of the SS men.

The Race and Settlement Main Office had two distinct duties: (a) the removal of foreign elements and their transportation back to their native districts; (b) the return to the Reich of Germans of Polish extraction living in Western Poland.

Witness denied that this program had anything to do with the Germanization scheme or the deportation of the nationals.

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He also said that this was not part of the Lebensraum policy which was confined to the colonial question. The extermination of the Jews could not be laid at the door of this department.

The training given to the SS had as its object the development of brave, loyal and religious SS men. He strongly denied the truth of the statement of the American Prosecutor on the 19th of December, 1945 that the purpose of the Race and Settlement Office was to create an aristocracy to master Germany and all Europe. Hatred of other races was not encouraged. The department knew nothing of the murders of Jews although they knew about deportations. The deportations of Jews were founded on the principle that the twenty-five million Jews in the world had a right to establish their own homeland and to work out their own problems there (See paragraph relating to the persecution of the Jews).

6. <u>The Volksdeutschemittelstelle (Repatriation of Racial Germans)</u>

By decree of the 7th of October, 1939, the Volksdeutschemittelstelle was given the task of directing the return of Germans who had been living abroad. The Volksdeutschemittelstelle was a state office and not really a Nazi organization. The Prosecution according to Counsel have accused the SS of making use of the Volksdeutschemittelstelle to carry out deportation. It was the purpose of the Defense, however, to show that far from being deportations these were really re-settlements of German nationals.

The first re-settlement carried out was in September 1939 and consisted of an exchange of persons with the Russians in Poland.

The second re-settlement was carried out by a line drawn through Poland and Lithuania which was decided upon in agreement with the Russians. The idea was that one side should be all Germans and the other side all Russians. German-Russian commissions on both sides of the border carried out this operation.

The witness denied the Prosecution's contention that the SS through the Control Office for German minorities took part in

H2740-0119

a discussion referred to in Exhibit R-114 about the re-settlement of people living in Alsace. The German minorities office was only concerned with Germans living abroad whereas those in Alsace-Lorraine were administered by a civil administration. He denied in cross examination that the Volksdeutschemittelstelle directly financed Henlein or promoted fifth column activities in the Sudetenland. He said, however, that various minorities including the Sudeten German party were financed by the Volksdeutschemittelstelle through the Ministry of Finance.

The total number of Germans returned to Germany by reason of agreements with Russia numbered one million people. The Volksdeutschemittelstelle did not regulate the actual settlement but only the transportation.

The witness denied on cross examination that HIMMLER was made trustee of the Volksdeutschemittelstelle because he represented an organization (i.e., the SS) which was trained to persecute other races. In giving directives to the organization he was not acting in an SS capacity. The Volksdeutschemittelstelle did not concern itself with the racial question but it supplied funds whereby minorities could pursue their "cultural and religious activities". It did not transmit propaganda. The annual figure transferred to German racial groups until 1939 was between two and three million marks.

Questioned concerning the actual relation of the SS to his department, witness said that the first section was directly subordinate to HITLER under Gruppenfuehrer Lorenz. Personnel of this section were given honorary SS ranks. The second section concerned with funds employed about 14,000 people of whom 200 were SS men. There were also 600 members who were drafted into the WAFFEN-SS and employed in the main office of the Volksdeutschemittelstelle. There were thus about 800 people belonging to the SS. They wore SS uniforms because the Russian authorities insisted that they be in uniform for carrying out their work of re-settlement in Poland. He denied that the Volksdeutschemittelstelle knew or

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played any part in the extermination of the Jews. In fact it even re-settled Jews in the course of its program.

7. The Legal System of the SS

The SS legal systems were described by Guenther REINECKE who was chief of Department One of the SS legal division and director of the SS Supreme Court. He said that SS judges had their own courts but were trained like judges in the civil system. There was no special SS legal system up to the beginning of the war since the ALLGEMEINE SS was under the jurisdiction of the civil courts. There were, however, certain disciplinary laws within the SS. Prior to 1939 SS offenders were put at the disposal of the civil courts through a special liaison officer between the SS courts and the Ministry of Justice.

Courts-martial for the WAFFEN-SS were set up on the 7th of October, 1939 and a "Special Jurisprudence" instituted. This, according to witness, was only a technical term to distinguish the SS legal principles from the civil code. The SS courts-martial took under their jurisdiction the WAFFEN-SS, the SD and all auxiliary formations except the ALLGEMEINE SS which remained under the civil code. There were about 75 SS courts which eventually came to be known as SS and police courts. The judges of the courts were independent and bound by the civil law but they had no jurisdiction over civilians.

In addition to the application of the general principles of the civil code by the SS and the Police courts they also administered certain SS "basic laws". These were in practice commands of HITLER himself proclaimed with the object of insuring the ethical standards of the SS on such matters as property and religion. There was no practical distinction between the SS and the Wehrmacht courts. Reference was made to HITLER'S order that soldiers who had committed offenses against the population in occupied territories need not be punished. REINECKE explained that this order was liable to misunderstanding. It did not mean that the offenders

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were never to be punished but merely that it was at the discretion of the judge. He said that Bach-Zelewski's evidence concerning this order was a deliberate falsehood.

The jurisdiction of the SS courts extended to the RSHA, to the Security Police and SD. In practice, however, HEYDRICH succeeded in getting HIMMLER to approve that any disciplinary measures concerning the RSHA should be carried out by that organization. As a result the SS and police courts were prevented from having any knowledge of crimes committed within the RSHA itself (For investigations carried out by the SS and police courts in concentration camps and the punishment of offenders there, see paragraph on concentration camps, Part Two).

VI. THE WAFFEN-SS

The origins of the WAFFEN-SS have already been described. In 1940 the WAFFEN-SS comprised 100,000 men, 56,000 coming from the VERFUEGUNGSTRUPPE and the rest from the ALLGEMEINE SS and TOTENKOPFVERBAENDE. Before the actual creation of the WAFFEN-SS, 18,000 members of the VERFUEGUNGSTRUPPE had been formed into a division by the witness JUETTNER. All witnesses for the WAFFEN-SS emphasized that it was formed with the intention of creating an SS unit on Army lines.

1. Statistics of Recruiting of the WAFFEN-SS

Recruiting for the WAFFEN-SS seems to have proceeded fairly rapidly after 1940. The witness BRILL gave the following figures on recruitment: 1940, 50,000; 1941, 70,000; (conscripts negligible); 1942, 110,000 (80,000 volunteers); 1943, 210,000 (110,000 volunteers); 1944, 370,000 (160,000 volunteers).

The figures were completed by the witness BLUME who said that between 1944 and 1945 125,000 Germans were drafted into the SS out of a total of 530,000 men. The estimated total figures of the WAFFEN-SS were as follows:

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1940 - 100,000
1941 - 150,000
1942 - 200,000 to 250,000
1943 - 350 000 to 400,000
1944 - 550,000
1945 - 580,000

(These latter figures should not, of course, be confused with the recruiting figures) (See page 25 of the transcript).

Cross-examined by the Prosecution, BRILL was asked whether it was not true to say that until the autumn of 1939 all members of the SS were volunteers for any branch. He agreed that it was not until after the beginning of the war that any drafting began. After some confusion had been created concerning 36,000 men of the ALLGEMEINE SS who were drafted to the WAFFEN-SS in 1940 it was admitted that these men were originally volunteers for the ALLGEMEINE SS.

The WAFFEN-SS in 1940, therefore, consisted of people who had originally volunteered for either the VERFUEGUNGSTRUPPE, the TOTENKOPFVERBAENDE or the ALLGEMEINE SS. Subsequently members of the ALLGEMEINE SS were only very rarely drafted into the WAFFEN-SS.

From 1942 onwards it appears that drafting into the WAFFEN-SS became more frequent. The Leibstandarte Adolf Hitler, for instance, in 1943 had 2,000 conscripts.

Asked by the Prosecution concerning the total figure of killed and missing in the WAFFEN-SS up till 1944, he gave this as 200,000. The total wounded, i.e. those declared unfit for active service, amounted to 120,000. He said that the total figures given above do not include the 200,000 killed and missing but might possibly include 120,000 wounded.

Discussing figures for the period 1944 to 1945 BLUME said that the total estimated casualties of the WAFFEN-SS during the war were between 300,000 and 350,000. The total membership for 1944/45 that he gave did not include these casualties.

H2740-0123

2. Statistics of Personnel of the WAFFEN-SS Units. Inclusion of Foreigners and Racial Germans

The WAFFEN-SS of 1944-1945 bore no resemblance to the original unit of 1940. From 1941 onwards various German nationals from other countries, especially the Balkans, were recruited. The majority of these seemed to be volunteers. As a result, in December 1944 out of a total of 580,000 men, 160,000 were foreigners (germanics), 160,000 were Volksdeutschen or racial Germans and 260,000 were pure blooded Germans. There were 40 divisions at the end of the war including two foreign units and seven small foreign groups together with a Germanic group. (These figures were given by BLUME). BRILL gave figures which apparently included the casualties of 300,000 referred to by BLUME for the period 1944 to 1943, giving a total of 910,000 men in the WAFFEN-SS in December 1944. He said 410,000 were Germans, 300,000 Volksdeutschen, 150,000 aliens and 50,000 Germanics from Scandinavia and Holland.

Volunteers for the organization could not resign. They usually volunteered with the motive that it was a decent and courageous unit. They received a written drafting order.

Doctors and technicians were drafted without regard for their political opinions. This evidence was confirmed by DR. PETER LIEBRICH, a medical officer of the WAFFEN-SS.

FELIX SCHIEBLICH, a private soldier in the WAFFEN-SS said that when the war broke out he was 16 years and 8 months old. He volunteered for the WAFFEN-SS in October 1942 because he liked the appearance of SS troops and considered them an elite unit. He said his hopes were fulfilled. He could not see any difference between the conscripts and the volunteers in the WAFFEN-SS. All of them felt content and he confirmed the evidence of BRILL who said that the SS headquarters never received complaints from either volunteers or conscripts except in very rare cases. Before 1933 there were, however, complaints from parents whose children had been drafted into the WAFFEN-SS but after this date boys of

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17 years or older could join with the permission of their parents. BRILL said that his office tried to select young and healthy people without reference to their political views.

3. Organization and Command of the WAFFEN-SS

The WAFFEN-SS had no supreme command of its own. The so-called Fuehrungshauptamt was an administrative office and to all intents and purposes the members of the newly formed WAFFEN-SS became, when the war started, soldiers in the Army. HAUSSER who commanded at different times a division, a corps and an Army group, said that during his five and a half years at the front he received orders only from the Supreme Commander of the Army. The WAFFEN-SS was subordinate to HIMMLER only in questions of personnel.

Asked whom he considered his direct commander, HIMMLER or HITLER, HAUSSER answered that the Supreme Commander was HITLER. HIMMLER was much criticized for his lack of military knowledge. He tried to instil his own ideology into the WAFFEN-SS but as is natural with a front line unit, the troops paid little attention to the utterances of people in the offices at home. In any case, the WAFFEN-SS commanders "knew what to tell their soldiers".

HANS JUETTNER also said that the WAFFEN-SS was under the Commander-in-Chief of the Army and was incorporated into higher formations like any ordinary Wehrmacht unit. It had no independent commands in the field. (See page 247 of the transcript.)

ULLRICH who commanded the SS Panzer Division Viking gave the same evidence and denied that there was any difference in fighting methods or organization between the WAFFEN-SS and the Army. Other evidence was given that there may have been some differences in the type of equipment supplied to the WAFFEN-SS through the WVHA for training.

All officers of the WAFFEN-SS who were called before the Commission similarly denied that the WAFFEN-SS was educated with a view to irregular or especially cruel methods of fighting. The training of the WAFFEN-SS was supervised by the Army. Even HIMMLER had requested "decency in life and in battle". HAUSSER considered

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that at any rate his commanders carried out this precept.

Asked by Counsel whether it was correct to say that after 1943-1944 the methods of fighting according to these principles changed, he said that this may have been due to the growth of the WAFFEN-SS and the increase in the number of foreign volunteers. He testified that the troops had lectures in international law and the principles of the Geneva and Hague Conventions. BRAUSSE, who had been in charge of the legal education of the WAFFEN-SS, said that they were specially trained to prevent crimes and excesses in the field. They were issued booklets giving details of the court-martial system, disciplinary laws of the SS and the laws of warfare. The basic point of the SS ideology was law and order and consciousness of the necessity for discipline.

The witness MOLT who had command of one of the SS training schools gave similar evidence. He said that the goal of the training was the development of people of high moral and physical standards. There was no intention of forming a caste of Herrenvolk but it was hoped to unify countries of Europe for the protection of a united culture against Asiatic influences. Thus the theory of a Western European culture was taught.

The education of the so-called Junker Schools did not advocate brutality. In other respects the purposes of the school were to train good officers from a military point of view.

4. Concentration Camps, Einsatzgruppen and Relations with the SD

The Defense alleged that the WAFFEN-SS had no direct relation to the police work of HIMMLER, especially the GESTAPO and concentration camps. As previously stated, HIMMLER deliberately deceived the public by calling the concentration camp guards members of the WAFFEN-SS although they were really only ordinary troops under the SS administration. There was no exchange of personnel between the WAFFEN-SS, GESTAPO, Security Police or SD.

BRILL gave figures of guards in concentration camps in 1944. He said they totalled 30,000. At the beginning of the war,

8,000 TOTENKOPFVERBAENDE were transferred to the WAFFEN-SS. In 1941 the Main SS Office began to recruit concentration camp guards from VOLKSDEUTSCHEN. These men had applied for membership in the WAFFEN-SS. Six thousand to 7,000 were recruited together with members of the German Veterans Association who had volunteered for the WAFFEN-SS but who were too old or infirm for active service. The remaining guards were personnel transferred from the Army and Air Force, and included a number of aliens who did not understand German. He divided the 1944 figures as follows: 7,000 Volksdeutschen, 10,000 volunteers for the WAFFEN-SS, many of whom were aliens and 7,000 transferred from the Army and Air Force. There were probably another 6,000 men connected with concentration camps who may have been in some way connected with the SS.

This evidence should be considered in the light of HAUSSER'S statement that if it were true that concentration camp guards were technically regarded as members of the WAFFEN-SS, the WAFFEN-SS in the field were not aware of this. With regard to the Einsatzgruppen, HAUSSER said that he knew like most people that HIMMLER put members of the SD into the ranks of the regular Army to supervise the civilian population. He learned after the war that there were about 600 WAFFEN-SS personnel in the Einsatzgruppen, to the extent perhaps of three or four companies. (See Part Two of this Report under Concentration Camps and Einsatzgruppen.)

JUETTNER says that in 1941 he complained to HIMMLER that the WAFFEN-SS were being used by HEYDRICH to carry out executions in Bohemia. These were stopped on HIMMLER'S orders (Document PS 1972, US 471).

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PART TWO

SPECIFIC CRIMES WITH WHICH THE SS IS CHARGED

1. Persecution of the Jews

(a) EICHMANN'S Operations

Evidence regarding the activities of EICHMANN was given by WISLICENY who had been a member of the Jewish Committee of EICHMANN. According to this witness there was a meeting in 1942 when EICHMANN described the so-called final solution or extermination of the Jews. Using a diagram which had formed the basis of his testimony before the Tribunal on the 3rd of January, 1946, he gave the names of ten officers of the SS, the SD and the GESTAPO who were informed of this order. In cross examination he admitted that there were a number of other groups involved in the extermination plan. There were, for instance, members of Einsatz groups and those who were employed by EICHMANN to cover up traces of executions, together with various GESTAPO officials. He contended that the commandos who participated in the final solution were very few in number. Tremendous precautions were taken to keep EICHMANN'S orders secret. No written statements were made.

The Theresienstadt camp was allowed to continue in existence in order that members of various international organizations such as the Red Cross could visit it and have the impression that Jews were housed there as in other camps. (See evidence of VON THADDEN below regarding the visits of diplomatic representatives to the camps.)

The Jews who were sent to Auschwitz were forced to write postcards which were sent at intervals by the camp authorities to give the impression that the writers were still alive. They were allowed to take 100 pounds of luggage with the object of making them believe they were being sent for re-settlement. In addition it would be extremely difficult for anyone to detect that Auschwitz was used for extermination.

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EICHMANN also attempted to give the impression that Jews were being sent for re-settlement by various other forms of deceit. In the transportation of Jewish prisoners to Auschwitz most of the guards were members of the Order Police. Witness only know of one case where the WAFFEN-SS guarded such a transport. No members of the SD were used. (See pages 577, 810, 811, 838 and 839 of the transcript.) Train guards were never allowed to enter the camp at Auschwitz and it is most unlikely that these men would have any detailed knowledge as to the fate of the Jews.

He was under the impression that the whole action EICHMANN was entirely unknown to the WAFFEN-SS. There were, however, a number of SS personnel on the EICHMANN Committee.

In order to show that EICHMANN took such precautions that his activities were entirely concealed from the SS and from the Foreign Office liaison, the defense called ERERHARD VON THADDEN, a foreign office councillor. He gave evidence that he visited Belsen and other camps with Red Cross and Swiss representatives and found conditions there "quite good". These visits were instigated by rumors in the foreign press of 6,000 Jews a day being burned daily at Theresienstadt. Visits to Theresienstadt indicated that conditions there were satisfactory.

In answer to the statement that the "whole world" knew what was going on, VON THADDEN observed that the SS and the foreign office had no access to the foreign press or radio. He alleged that the sole purpose of his department working in liaison with EICHMANN was to prepare propaganda for the "comprehension" amongst other nations of the executive measures against the Jews.

Cross-examined as to what he meant by "executive measures" and why he had made a speech on EICHMANN'S behalf, the minutes of which were not published, he said the executive measures only referred to deportation. He thought only two or three officials of the foreign office could have known about the proposed liquidation. Even the foreign secretary knew only of the deportation.

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He said that he was prevented by EICHMANN from going to the extermination camp at Auschwitz for security reasons. EICHMANN said that secret weapons were being made there. EICHMANN thought that reports in the foreign press of exterminations in this camp were of an advantage since the camp might not be attacked by enemy bombers. EICHMANN assured the foreign office that these reports were untrue and that the Jews were properly cared for.

During a discussion as to the relevancy of the evidence of this witness, the Defense claimed that the fact that a very high official of the foreign office and an honorary member of the SS such as VON THADDEN did not know of the exterminations, implied that the SS as a whole did not know of them either. (See page 1168 of the transcript.)

(b) The Events of November 10, 1938

Witnesses for the ALLGEMEINE SS claimed that the SS did not participate in the demonstrations of the 9th of November, 1938. VON EBERSTEIN who was police president in Munich at the time, said that he knew nothing of the demonstrations until after GOEBBELS had made his inflammatory speech and synagogues were already burning. He claimed that he did not see HEYDRICH'S teletype saying that the security police as well as members of the SD, the VERFUEGUNGSTRUPPE and ALLGEMEINE SS might be used in the demonstrations until after they had already started. The same explanation of the alleged participation of the SS in these demonstrations was given by other witnesses.

2. Denial that the SS was used to spread terror among the population

As has already been stated, the witnesses declared that the ALLGEMEINE SS and the VERFUEGUNGSTRUPPE did not receive training which would render them a "terror unit" of the party. They were not a handful of brigands and gangsters as the Prosecution have declared. It was true that it was the aim of the leaders of the SS to make it an elite unit but this objective was by no means entirely

realized. It was admitted that excesses were carried out but these offenders were always punished by the SS courts.

With regard to their participation in the suppression of the Roehm Putsch in 1934, first hand evidence of this was given by EBERSTEIN and by another witness JOEHNK who was a member of the Leibstandarte at that time. EBERSTEIN who was in charge of an SS district in Dresden at that time was summoned by HIMMLER a week before the 13th of June and instructed to alert his SS men who were kept in their barracks and not allowed to go on the streets. On the 30th of June he learned from a member of the SD who was not under his orders that 28 people were to be arrested or shot. Of these 8 were to be executed for high treason on HEYDRICH'S orders. The executions were carried out by the Reichsgruppenfuehrer of Saxony.

JOEHNK said that on the 30th of June 1934 the Leibstandarte was alerted. While his platoon was in Berlin they learned of the shooting of various SA leaders who had been court-martialled and that some members of the Leibstandarte had carried out the executions. Members of his unit considered that these executions were right as they were for high treason.

In cross examination the witness said he did not think it peculiar that Gruppenfuehrer Dietrich, the commander of the Leibstandarte, should have told members of the unit to be quiet about what they had seen. He believed that Dietrich had received orders for the executions and that they were perfectly lawful.

3. Denial that the SS as a whole were concerned in Concentration Camp Atrocities. Offenders were punished by the SS Courts

The relation of the SS personnel to concentration camps has already been described. The purpose of the defense was to show that the details of administration of concentration camps were not widely known and that the guards, particularly towards the end of the war, were drawn from persons who were only nominally members of the SS. It is, however, admitted that the TOTENKOPF-VERBAENDE prior to the war guarded concentration camps, but they

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were transferred to form the WAFFEN-SS in 1940. It is claimed that the SS main office gave no orders to guards in concentration camps nor did they receive any reports. Amtsgruppe D of the WVHA worked entirely independently and numerous other personnel including Higher SS and Police Leaders who were involved in the concentration camp command, held only honorary membership in the SS.

The defense tried further to establish two points with regard to concentration camps:

(1) That the SS courts tried a considerable number of offenders accused of ill treatment, according to their disciplinary laws.

(2) That HIMMLER was originally in favor of investigating conditions but eventually gave way to POHL and GLUCKS of the WVHA, as a result of which the cloak of secrecy surrounding the camps could not be penetrated.

REINECKE said that inmates of concentration camps were under the civil law. This had been ruled by the Reichs Ministry of Justice. The members of the staff of concentration camps were under the jurisdiction of the SS and police courts. It had always been the duty of SS courts to prosecute crimes committed in concentration camps but in the latter part of 1943 and until the end of the war, a series of special investigations started.

These crimes were first discovered as a result of the trial of KOCH, commander of the Buchenwald concentration camp. It soon became evident that other irregularities were occurring and that the SS and police courts would not be able to cope with the prosecution of so many crimes. As a result a committee of experts was appointed who were composed of members of the criminal police with an SS judge attached to each committee. Apparently these investigations were more successful than GLUCKS, the Chief of Amtsgruppe D and his chief POHL considered was desirable. In 1944 HIMMLER requested that the investigations of the SS courts be discontinued due to the fact that the discipline of the prisoners was being endangered. HIMMLER did not continue

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to render any assistance to the investigations. REINECKE said that among the people who appeared to be connected with such crimes were camp commanders and their staffs and medical personnel. He informed the Commission that in his opinion there were very few guards responsible. Most of the orders for which their subordinates were prosecuted were issued by GLUCKS, POHL, GRAWITZ, Chief of the Medical Staff and MUELLER of the RSHA.

In all, 400 cases were investigated by the SS and police courts and a decision was reached on 200. Five camp commanders were prosecuted, two of them being sentenced to death.

Cross-examined REINECKE said that he had no knowledge of the order of the Reichsfuehrer SS that certain anti-social elements such as Jews and gypsies with more than three year sentences were to be "worked to death". It was suggested to him that it was odd that the Highest SS and judicial authorities were informed of this and he knew nothing about it. He answered that such things could only have taken place within the sphere of administration of concentration camps and as he had testified it was impossible to penetrate the secrecy surrounding them.

He admitted that the men who were guarding concentration camps belonged to the SS. He never heard any of the guards mention atrocities and said that the reports received by the SS and police courts were carefully and expertly drawn up.

There was, however, a case in Buchenwald where it was found that the evidence of witnesses regarding a certain incident had been fabricated with the assistance of the Commandant himself.

4. Denial that the SS committed atrocities against Civilians, Prisoners of War or Partisans in Occupied Territory

Giving evidence regarding conditions on the Eastern Front, ULLRICH, Commander of the Panzer Division Viking, which has been accused of many atrocities by the Prosecution, said that relations between the troops and civilian populations were good. People were usually apprehensive on hearing of the arrival of

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the SS but this was soon alleviated when they observed that they conducted themselves in a proper manner. He denied that there was any destruction of villages except as a matter of military necessity. Efforts were always made to transport civilians back to the rear during the fighting.

The Division Viking was never used in anti-partisan warfare. It was considered that anti-partisan measures were a matter of military necessity in order to protect the troops at the front and to keep the road open for reinforcements.

ULLRICH said he had never seen or heard of cooperation between the SS and police troops in the Polish Campaign although he was willing to concede that HIMMLER was telling the truth in Document PS 1918, USA 304 (a speech in Metz). In this speech HIMMLER declared that the Security Police assisted by the SS had to be "tough" when shooting thousands of leading Poles.

Questioned regarding the Commissar Order, HAUSSER said that the order was only passed at first to higher commands and in 1941 the WAFFEN-SS had no high command of its own. He did not receive this order until much later. In practice the order was never carried out. This according to ULLRICH was because most prisoners had no insignia of rank and it was difficult to distinguish commissars from other prisoners. The WAFFEN-SS were of the opinion that the order was against all their principles of discipline and human rights.

Evidence was given regarding the Commando Order of October, 1942. The witness GRAF who was head of the interrogation division of the Fifth Mountain Corps, said that commandos captured on the Dalmatian Coast were correctly treated and third degree methods were not used to obtain military information. He said he knew of the existence of letters from Colonel Jack Churchhill and Colonel Skipwith of British commando units expressing thanks for the correct treatment that they received.

In the Balkans Tito's bands were properly treated

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according to international law even those who did not wear uniforms. SS troops were severely punished for excesses towards the civilian population and examples were often made.

German troops were frequently tried for stealing or appropriating the property of the civilian population in Russia. Witness denied that HIMMLER'S speech at Kharkov in April 1943 in which he said that Russians should be taken dead or alive, represented a point of view that was common in the WAFFEN-SS. The general view in the WAFFEN-SS was that killing was only permissible in actual combat.

Statements like "anti-semitism is the same as delousing" were considered by witness to be in "bad taste".

He admitted that this speech was made to about 50 commanders of his WAFFEN-SS of the troops stationed around Kharkov. He was not prepared to admit that his commanders passed these statements on to the troops but agreed that HIMMLER may have made a similar speech to units of the 1st, 2nd and 3rd SS Panzer Divisions.

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THE SD

The Defense called six witnesses before the Commission:

ALFRED HELMUT NAUJOCKS, who was employed by Heydrich to carry out the attack on the Gleiwitz Broadcasting Station in 1939 (Document PS 2751)

STANDARTENFUEHRER DR. KNOCHEN, who was Chief of the Security Police and SD in France from 1942 until 1944.

OBERSTURMBANNFUEHRER HOEPPNER, who was in charge of Amt 3 A of the RSHA.

DR. ALFRED HOENGEN, who worked in a section of the SD concerning law and administration (Amt III A of the RSHA).

DR. HANS EHLICH, Chief of Section III B of Amt 3 of the RSHA (population and racial questions).

DR. HANS ROESSNER, who was in Group III C of Amt 3 of the RSHA which dealt with science, education and religion.

According to his preliminary statements, Defense Counsel sought to establish the following points through these six witnesses:

1. The SD was a party information agency developed to report on the morale, opinions and conditions of the people in all their "spheres of life", (Amt III). It reported foreign intelligence (Amt 6) and carried out various forms of research (Amt 7).

2. The SD was not a police force. It grew up and worked independently of the SS and the GESTAPO. It had in general no executive powers and no powers of arrest.

3. It only dealt with Jewish problems in an advisory and research capacity. Its function as far as the Einsatzgruppen and concentration camps are concerned was similar. It carried out investigations on religious questions but played no part in the persecution of the Church.

4. Both in Germany and in occupied territory the term "SD" was used in a very general sense to denote other departments, such as the RSHA and the GESTAPO and Security Police. A considerable number of people who were really members of the SS and other

organizations were SD on their uniforms and were called "SD men". Consequently, many of the crimes with which the SD proper is charged were really committed by other groups.

5. The number of persons belonging to the SD who could have known about the Eichmann program, about Einsatzgruppen or about concentration camps was extremely small.

6. The agents employed by the SD were about half of them volunteers and half paid as regular agents.

Most of the evidence on behalf of the SD concerns activities with which they were charged under Article 6 of the Charter. There is very little evidence on the question of knowledge of criminal activities or voluntary membership. The following is a resume of the evidence of the witnesses called on the question of whether or not the SD was a group designed to engage in activity defined as criminal under Article 6 of the Charter.

1. Meaning of the Term "SD"

Several of the witnesses asserted that the term "SD" was used in a very general sense to include not only other organizations but also groups of people who did not belong to the real SD. The witness KNOCHEN, for instance, explained away documents in which the expression "handing over to the Security Police and SD", or merely "to the SD" was mentioned as not meaning the SD at all but the Security Police itself. The relevance of such evidence seems doubtful except insofar as witnesses were able to explain specific documents. Presumably the evidence of the witness NAUJOCKS to explain the nature of the term "SD man" was to show that the SD itself was a limited organization. The wide use of its name may have given the impression that its members are accused of crimes committed by other organizations. It does seem clear, however, that the large number of persons referred to by KNOCHEN who wore the SD insignia on their uniforms were in some way or other attached to the office of the SD and Security Police in Paris.

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H2740-0137

(a) The Term "Sicherheitsdienst"

The witness HOEPPNER (Transcript page 1605) states that the term Sicherheitsdienst, or SD, could mean

(a) an SS formation known as the SD.

(b) a special information agency.

The SD considered as an SS formation was entirely different from the various departments of the RSHA which formed the SD as a special information service of the party. Amt 3 (Home Intelligence), Amt 6 (Foreign Intelligence), and Amt 7 (Research) of the RSHA comprised the information agency. The SS formation consisted of units of the ALLGEMEINE SS and Security Police. There was, however, no collective responsibility attaching to these different organizations.

The term Sicherheitsdienst as applied to the above two divisions should also not be confused with the Reichs Sicherheitsdienst, a "special organization set up for the protection of the Fuehrer".

(b) "SD Men" (See also Evidence for the GESTAPO)

The witness NAUJOCKS on pages 508 to 509 and page 1118 of the transcript, gives a definition of the term "SD man". The witness was called by the Defense to show that the statement in his affidavit to the Prosecution in November 1945 that he and other "SD men" had carried out the fabricated incident on the Polish border in 1939, was based on a misunderstanding of the term "SD man". (See PS 2751, US 482.)

NAUJOCKS explained the misunderstanding as follows: All people working in offices under HEYDRICH as Chief of the Security Police and SD were called "SD men". This was a general description. An "SD man" was anyone HEYDRICH could trust politically.

Re-examined by the Defense on page 1118 of the transcript, the witness agreed that the following definition of "SD man" is correct:

(1) A member of the Home Intelligence Service (Amt III of the RSHA).

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(2) A member of the Foreign Intelligence Service (Amt VI).

(3) A member of Amt VII of the RSHA (Research).

(4) A member of the so-called SD of the SS, together with, in some cases, all members of the RSHA and some members of the GESTAPO and criminal police. In addition to this there were, of course, those people who were especially trusted by HEYDRICH.

The witness KNOCHEN on page 451 of the transcript observes that a large number of people in France who had nothing to do with the SD wore the SD insignia on their SS uniforms. There were even cases of French citizens describing themselves as members of the SD, and some of the crimes by them may have been charged to the SD.

KNOCHEN said that in his department of the Security Police and SD there was an estimated total number of 2,500 personnel. Only ten to twelve persons were members of Amt III of the RSHA and, consequently, of the Home Intelligence Service. There were 30 to 35 people who belonged to Amt VI, the Foreign Intelligence Organization of the RSHA. In other words, only 60 to 65 people belonged to the official SD offices, Amt III and Amt VI, whereas 2,400 to 2,500 wore the uniforms of the SD in France.

(c) Documents referring to the "Security Police and SD" or "The SD"

The same witness was, during the hearing on Commission, shown a large number of documents relating to the Commando Order of October the 14th, 1942, and to the treatment of paratroopers and members of the French resistance. These documents said that captured persons should be handed over to the SD.

KNOCHEN who was previously Chief of the Security Police and SD in Paris, stated that the term "SD" was often mistakenly used to mean the GESTAPO or Security Police. This mistake was frequently made by higher commands. (Page 461)

H2740-0139

2. The SD Grew Up from 1932 Onwards as an Independent Party Organization Separated in Varying Degrees from (a) The SS, (b) The GESTAPO, (c) The Police, and (d) The Party.

(a) The SD and The SS

Although it is true to say that there was a so-called SS formation known as the SD, which has already been referred to, the statement that the SD was properly part of the SS is really incorrect. The SD in the sense that it consisted of Amts III, VI and VII of the RSHA was

(1) A Party Organization.

(2) Very few of its members belonged to the SS.

(3) It was unique in the sense that it grew up "unofficially" and was not established by legal decree.

The Book "Ten Years of Security Police and SD" (Document PS 1680) seems to imply that the SD was furthermore part of the SS. The witness HOEPPNER, however, says that the SD was merely a special intelligence organization created in 1932 by the Reichsfuehrer SS. This should, however, not be taken to mean that it was a sub-division of the SS or that it carried out SS tasks.

He further distinguished the so-called "SD formations" within the SS from Amts III, VI and VII of the RSHA but saw that this consisted of members of the Security Police and SS who were formed into special groups. The exact position of the SD formations in the SS was not made clear by any of the witnesses.

According to HIMMLER the SD was the "great ideological intelligence service of the Party and in the long run, also of the State". During the time of the struggle for power it was the only intelligence service of the SS. With regard to the last part of this sentence HOEPPNER observed that one could only consider the relationship of the SD to the SS in the light of the development of the SD from 1932 until it officially became Amt III of the RSHA in 1939. (See below)

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The witness ROESSNER was cross-examined on an extract from the National Year Book of 1941 in which it is stated that the SD was a political intelligence service created in accordance with the "racial and ideological selection required by the SS". The witness denied this saying that the SD had specific functions which are described below. The only thing correct in this book is that HEYDRICH was simultaneously Chief of the Security Police and the SD.

(b) The SD and The GESTAPO

The witness HOEPPNER who gives much the best evidence on the structure of the SD, declared that from the point of view of organization there was no direct relation between the GESTAPO and the SD. The principal differences which he explained were

(1) The GESTAPO was established by State ordinances.

(2) The SD grew up by no fixed rules and was not a State but a Party authority.

Similarly the fact that HEYDRICH was Chief of the Security Police and SD did not mean that the Security Police was the same as the SD. The aims and activities of the GESTAPO and SD were quite different. The function of the GESTAPO was executive as far as political aims were concerned, whereas the SD merely collected intelligence both at home and abroad. The SD had no power of arrest and was not interested in individuals but in general problems. While admittedly there was a sort of general office collaboration between the SD and the GESTAPO, the SD did not report to the GESTAPO on individuals and they did not mention names in their reports on groups or section of the population.

The book by Dr. BEST (See report on Evidence for the GESTAPO submitted by the Prosecution as PS 1852) is according to this witness, quite incorrect. The SD was never a tool of the GESTAPO nor was it a "General Staff" of the GESTAPO.

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(c) The R.S.H.A.

HOEPPNER, when cross-examined, was shown L 361 where HEYDRICH was stated to have brought the various offices of the Security Police and SD under one head, the RSHA or Reichs Security Main Office. The Prosecution put to the witness that the setting up of the RSHA created a greater centralization of the main offices and, therefore, brought the GESTAPO and SD together. The witness stated this was incorrect. He said that by an order dated June 1938, the functions of the SD and GESTAPO were specifically separated and the establishment of the RSHA in no sense changed the functions of the SD as a separate organization.

Most of the witnesses throughout the hearings emphasized the distinction between Amts III, VI and VII of the RSHA and Amt IV which was in fact the GESTAPO.

KNOCHEN said that the same separation of functions applied to occupied territories, in particular to the Office of the Chief of Security Police and SD in France where the Sections of that office bore the same titles as the different Amts of the RSHA, e.g., Section 4 of the SD and Security Police in Paris corresponded to Amt IV of the RSHA in Berlin. (Page 478)

It would appear that SD agents operating in the field made their reports to the appropriate department of the local office of the Security Police and SD. The offices of Security Police and SD in occupied territory then transferred their reports to Amts III, VI or VII of the RSHA according to the subject. It is denied that the SD agents made reports directly to Amt IV or any branch of the GESTAPO offices except where they were asked for their "expert advice" before the GESTAPO took a decision.

(d) The SD was not part of the Police.

The Defense have tried to show that the SD was not a police organization and it did not belong to a uniform police system. They say that the allegation by the Prosecution on the

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26th of February, 1946, that the SD had police functions is quite incorrect. It concerned itself only with discovering what public opinion was and although it reported the intentions of hostile factions within the state, it took no executive action. Any executive action against treasonable groups concerned the GESTAPO.

(e) The SD and The Party

HOEFFNER stated that while the SD as such was a Party organization, it really served the party and the state in equal proportion. The Party, however, lacked confidence in the SD and the State did not issue orders to it. (See Volume I of the Ordinances and Laws of the Party Leadership, Page 599 of the 14th of December, 1938)

Within the Party Organization SD agents kept the Gauleiters informed of the state of affairs but they were not actual members of their staffs. The function, for instance, of Amt III was to ascertain the moods and reactions of the people towards measures taken by the Government. It received no orders from the party leaders.

In cross examination the witness denied that it was the duty of Amt III to report on cases of "wavering" from the principles of National Socialism on the part of party leaders.

The witness ROESSNER goes so far as to say that the SD did not interfere in politics at all but merely made general reports on conditions.

3. Activities of the SD as an Information Agency

This section of the report is devoted to

(a) Evidence that Amts III, VI and VII were entirely separate organizations.

(b) The nature of the reports made by Amt III, which was generally regarded as the most significant section of the RSHA, which is also considered a part of the SD.

H2740-0143

(a) Amts III, VI and VII of the RSHA

Evidence as to the structure and functions of Amts III, VI and VII of the RSHA is given on page 1607 of the transcript by the witness HOEPPNER. His definition of their functions may be briefly stated as follows:

Amt III collected information within the borders of the Reich; Amt VI collected information outside the borders of the Reich; Amt VII dealt with archives and records. These duties were independent of each other and the structure of the offices was very different, e.g., Amt III was highly decentralized and worked through branch offices and agents, whereas Amt VI, the foreign secret service, was highly centralized. There was no "collective purpose or feeling among the members of these groups".

(b) Nature of the SD Reports

With regard to the nature of the reports submitted by the SD, interesting evidence is given by the witness ROESSNER with regard to the various subjects which the investigations of the SD covered. ROESSNER says, for instance, that Group 3C of Amt III of the RSHA was divided into six sections dealing with the following subjects: Universities, education and religion, culture and art, press and radio, "culture" in occupied territories and documents. Its function was to correct "misdirected culture". Public opinion and criticism by the public in the spheres of science and religion were investigated and reports and constructive suggestions made.

Universities

The section dealing with universities advised on the appointment of professors and lecturers. Their reports on individuals were only "general appreciations" for the benefit of the Reichs Education Ministry who made decisions on university appointments.

The Church

The SD advised on questions of religion among Germans in general. It also reported on education and the reaction of the

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people to the philosophical views of the party. The Prosecution's allegation that the SD took part in the persecution of the Church and was ordered to assist in its destruction is unfounded. The reports did not result in any measures against the Church and were not directed towards its persecution. (On the question of the SD's defense against the charge of persecution of the Church, see paragraph 7 below.)

Racial Questions

The witness EHLICH, who belonged to Section III B which dealt with problems of population and public hygiene said that the functions of his group consisted of intelligence reports on the "moral attitude and opinions of the people on events and the decrees of authority". His section was particularly concerned with "Volkdum" which he described as the study of the racial and cultural characteristics of mankind. The general directives given to his section were that (a) the SD had no executive but merely intelligence duties and (b) Section III B was to confine its work to observing "formations and peculiarities of racial life".

In cross examination the witness stated that the question of the resettlement of Germans in Poland who before the war had been hostile to the Reich only concerned the SD insofar as it gave its expert advice to the GESTAPO who decided whether they were undesirable and should be thrown into concentration camps.

In regard to the elimination of politically or racially undesirable people, the witness emphasized that the function of the SD was purely advisory and that final decisions on such matters were made by the GESTAPO or RSHA.

Civil Servants

The same principle applied to the selection of civil servants. Evidence on this matter was given by Dr. Alfred KOENGEN who belonged to a section which concerned itself with

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law and administration, Ant III A. The purpose of his testimony was to show that the SD did not check the trustworthiness of civil servants in respect to their agreement with National Socialist ideas nor did it in any way influence the selection of Nazi leaders. He said that civil servants were appointed by the State. Information concerning them was supplied by the SD to the Hoheitstraeger for their decision. This decision was called a "Hoheitsakt" which had "constitutional value". The reports of the SD were only statements of fact and did not carry much weight. The words "Hoheitsakt" or "Hoheitstile" is an old German administrative term. It has no direct reference to the National Socialist system but appears to amount to a government decision.

HOEPPNER stated the information given by the SD concerning the appointment or advancement of civil servants did not necessarily have to be acted upon by the Hoheitstraeger. Much of the information concerning civil servants came from reports by old members of the service. The information concerning a candidate was supposed to cover his past professional career, education, family and financial background. Special departments were set up in the SD to cover the various professions, such as lawyers, doctors and others.

The principle object of this evidence was apparently to show that the SD did not aspire to put only those people into the civil service who were favorable to the regime. The SD merely gave information and no decisions. Their purpose was not merely to put only Nazis into leading positions, but persons who were best qualified as far as character and dependability were concerned. They did, however, report on high ranking officers of the Party and State.

SD "Confidence Men"

The agents employed by the SD to collect this information were known as V-men or confidence men. A full description of their activities is to be found in the evidence of witness

HOEPPNER. These confidence men were unpaid and according to the witness, acted from unselfish motives and only in the interests of the State. On these grounds he considered that the charge that the SD was a collection of spies and informers was refuted. Their work was not particularly secret and their existence was known to the whole nation. They did, however, use "cover numbers".

In general, the purpose of this testimony was to show that they were not strictly speaking agents of an espionage service. They were drawn from all walks of life and some of the people recruited were those who took a critical attitude towards National Socialism. This was because the SD wished to get the reactions of the whole population and not merely of party members.

It would appear that at the end of the war about fifty per cent of these confidence men were regularly employed and paid and the remainder were volunteers. They were not allowed to resign.

Cross examination of this witness with regard to the book written by Dr. Werner BEST gained the admission that the book was correct in that up to 1941 "The SD had been charged with investigating all forces which were of importance for the domination of the National Socialist movement in Germany. HOEPPNER said, however, that this should not be taken to mean that the SD had any executive powers in that respect. Dr. BEST'S description was open to misunderstanding.

4. <u>The SD and the Jewish Question</u>

The witnesses who covered this subject were EHLICH and KNOCHEN. EHLICH said that the SD did not deal with Jewish problems or carry out the extermination of Jews. They reported, however, on all sections of the population who were liable to be hostile to the regime. Asked by the Prosecution whether, since his Section (III B of the SD) was concerned with racial problems, this did not involve the Jewish question, the witness answered that the problem was only dealt with in the general sense of reporting intelligence.

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The EICHMANN Program

Dr. KNOCHEN was questioned at length on the question of the deportation of Jews from France. These deportations were carried out on the orders of HIMMLER through the Jewish Department of the RSHA under Standartenfuehrer EICHMANN. EICHMANN had various deputies in France and his immediate subordinate was a man named Oberstandartenfuehrer DANNECKER. The relation between the SD and agents in the field employed by EICHMANN and DANNECKER to carry out their program is no where made clear by any of the witnesses.

Referred to documents which appeared to show that the final solution problem was one of the aims of the SD and Security Police in France, the witness stated that the SD as such had nothing to do with this solution. The use of the term "SD", he assumed as meaning the RSHA.

He explained a large number of documents as being due to the careless abbreviation of the term "SD" which should really have meant the GESTAPO, Security Police or RSHA.

The witness was cross-examined regarding the alleged burning and blowing up of synagogues in Paris in October 1941. (Page 1318 of the transcript) It appears that an SS officer was instructed by HEYDRICH to deliver explosives to an anti-semitic group of Frenchmen to carry out the outrages. Documents and reports from HEYDRICH and the German military command in Paris indicated that the orders carried out by SS Lieutenant SAMMER came from KNOCHEN himself. He, however, denied that this was so and that the original orders came from HEYDRICH who wrote a letter of explanation which exonerated him. In any case, this blowing up of synagogues was not relevant to the charges against the SD.

5. The SD and Concentration Camps

(a) The SD did not Commit People to Camps.

All the witnesses denied that the SD had any control over concentration camps or any executive powers with regard to the

carrying out of the "bullet decree", the Nacht und Nebel decree or the suppression of political and racial undesirables.

HOEPPNER said that the SD at no time issued any orders regarding the setting up of concentration camps nor did it own or control any.

Referred to a number of documents which ordered the Security Police and SD in Brussels and elsewhere to throw persons into concentration camps, HOEPPNER said that the Chief of the Security Police and SD in carrying out such orders would be acting in his capacity as Chief of the Security Police alone and not of the SD. The SD did not report on individuals who should be thrown into concentration camps.

How far the GESTAPO or other organizations acted upon reports made by the SD is not entirely clear. In general it would appear that they were asked for their advice before decisions regarding particular cases were made by the GESTAPO. This was certainly true with regard to their investigations into the religious question.

Various other documents with reference to committal orders were shown to this witness where the SD was on the distribution. He said such orders were sent to them for information and did not mean that they had to take any action.

No units of the SD were ever used as concentration camp guards and within the Reich, Amt III (Home Intelligence) never received reports on concentration camps.

The witnesses BLAHA and MILCH (transcript of the Tribunal January 11th and March 11th, 1946) were in error in describing that they had seen SD officials in concentration camps. As previously described the words "SD" were often worn on the sleeves of their uniforms by SS men and other formations.

(b) The "Bullet Decree"

The so-called "bullet decree", PS 1650, order on the treatment of prisoners, D 569, the Document PS 1514, on the

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transfer of prisoners of war to the GESTAPO, did not involve the SD in their execution. The SD was, however, concerned with counter-intelligence among prisoners of war, e.g., the effect of prisoner of war employment on the population in general.

EHLICH explained under cross examination that Document 115 PS, USA 244, concerning Russian prisoners of war who were to be shot in concentration camps, was only sent to the SD for information.

(c) The "Nacht und Nabel" Decree

The Nacht und Nabel decree (Reference page 36 of the German transcript of the SS trial brief) only concerned the SD in the intelligence sphere. Its purpose was to report to the central emigration office which regulated the return of racial Germans to the Reich on the Volksdum principle. (See above)

In France, according to KNOCHEN, concentration camps were managed by the French Government. The French police were responsible for sending people there and the SD never interfered with these camps or carried out tortures or executions. (Page 459)

Reference was made in various documents submitted by the Prosecution to a number of arrests of members of the Resistance and to pitched battles in villages in various parts of France. The witness said that the large majority of alleged atrocities carried out were in fact military measures to protect the troops. If any members of the Security Police and SD participated, this was on the orders of the local military commander. (See documents 7913 RF 422 and 7257 RF 405).

(d) The Commando Order

The treatment of Commandos and paratroopers so far as it concerned the SD was fully discussed in the hearing of the witness KNOCHEN. The Commando Order of October 14, 1942, Document PS 498, US 501 was submitted. The execution of this order did not belong to the tasks of the SD in France. Here again, as on other occasions, he stated that the term "SD" was often mistakenly used to

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mean the GESTAPO or Security Police. He said that in general the expression "handing over to the SD" means handing over to Department 4 of the Security Police. The interpretation of the Prosecution's documents is, therefore, incorrect. It is quite untrue that paratroopers of French nationality who landed in British uniforms were arrested by the SD or that the SD carried out any interrogation of prisoners of war or practiced third degree on them.

Among the Prosecution documents referred to on this subject, in addition to the Commando Order referred to above, were PS 553 US Exhibit 500 to which the witness answered that the SD was not responsible for carrying out orders regarding sabotage, Document 385 US 806, Document 531 PS, US 550, 532 PS, RF 368 and 551 PS, US 551. All these documents referred to the handing over of prisoners to the SD and Security Police. The reference to the SD is a mistake.

(Note: The reference to paratroopers is Document PS 1276, US 520 and to the arrest of "terrorists" by field policemen of the SD is Document F257, Field Day Book of the Field Command 588.)

All of these witnesses gave the same answer that the SD was not concerned or intended (See pages 461 to 477 of the evidence of KNOCHEN).

6. Activities of Einsatzgruppen

Questioned by Defense Counsel concerning the task of his section of the SD in occupied territory, the witness EHLICH said that its function was to gather information about the population. He was acquainted with the activities of Einsatzgruppen and his section received reports from members of the SD who belonged to them. These were reports on the effect on the morale of the population of the shooting of Russian Jews and other measures. These reports never mentioned mass extermination but in any case this was a matter for the RSHA. In some cases the population

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were reported to "deplore" such shootings, in other cases they were said to have actually participated. There were no reports after 1943 received in this connection.

Since the SD was merely an intelligence service it would not order shootings but merely reported their effects.

Reports made by Einsatzgruppen

Shown a report of Einsatzgruppen A, Document L-180, he agreed he might have seen parts of it or have dealt with matters in it that concerned his section. The SD did not use gas vans.

The Prosecution read him the affidavit of OHLENDORF concerning the activities of Einsatzgruppen D in Russia, in which it is said that approximately 90,000 men, women and children were liquidated. Most of these were Jews.

Asked whether a report by the Chief of the SD did not show that members of the SD were concerned in the execution of Jews, he answered that as far as he knew such executions "did not belong to the orders which were furnished to the members of Amt III for their employment in the East". If members of the SD did take part in the execution of Jews they did not do that by way of their normal functions but on orders of the commander of their Einsatzgruppe.

Forced Labor

In regard to forced labor and deportation, the witness declared the SD concerned itself only with German minorities and their problems. It had no authority to punish foreign workers and it was quite untrue as alleged by the Prosecution that they asserted any control over them within the Reich. They did, however, advise the Reichsfuehrer SS as to whether deportation should be carried out and the deportation referred to in Document L 61 was not authorized by the Reichsfuehrer SS as a result of the reports made by the SD.

The witness HOEPPNER said that the decisive question with regard to the connection between the SD and Einsatzgruppen was

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whether these men, during their attachment to the Einsatzgruppen, could be said to be carrying out intelligence functions or police functions. HOEPPNER did not say exactly what the difference was between the intelligence functions or the police functions. It is, however, reasonable to assume that he meant intelligence functions in the sense of reporting on the reaction of the population to such measures as distinct from police functions which were executive and would include the active operations of the Einsatzgruppen. He admitted that personnel of the SD served in the Einsatzgruppen quite as much as the personnel of the Security Police.

7. The SD and The Church

In defining the functions of Group III C of Amt III of the RSHA, ROESSNER gave a long description of the relationship between the SD and the Church with reference to the charge that the SD cooperated with the GESTAPO and the party in persecuting the church and confiscating church property.

The SD's function was merely to report on religion and education in general. There was no collaboration between the GESTAPO and the SD for the purpose of persecuting the church and in any case the Amt IV of the GESTAPO had an independent office dealing with church problems. It was true that a number of SD "church specialists" were transferred to the GESTAPO but these were only very few in number. He agreed that a quantity of records on church problems was sent to the GESTAPO from the SD but that did not mean the SD was assisting the GESTAPO to oppose or persecute the church. The function of Amt III was to observe and report on the criticisms of church-going population on the measures of the party. This was not in order to show that the church-going population was in opposition to the party but to supervise the religious needs of the population "from the point of view of the party".

The SD did not involve itself in the exploitation of

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church property (See Document R-101) or persecute the National Czech Church (See Document 1538 presented by the Russian prosecution). It did not persecute Polish priests.

He said that while the SD accepted the principles of National Socialism, they rejected the attitude of BORMANN toward the Church. BORMANN'S policy of hostility towards the Church was not successful and in 1942 ninety percent of the members of the party were church men, including eighty percent of the SS.

8. The SD and Crimes Against Peace

The evidence of NAUJOCKS refers to the alleged organization by the SD of the simulated frontier incident at Bleiwitz on the Polish border, in August 1939. Witness NAUJOCKS stated that he was personally employed by HEYDRICH to carry out the task and that the SD offices, Amts III, VI and VII were not employed in this instance, nor were they informed by him.

The witness denied that he was given this task because of his membership in any of these offices (he was a member of Amt VI) but because HEYDRICH knew him personally. He received his orders direct from him. The reference to "SD men" as taking part in the Gleiwitz incident is based on a misunderstanding of the meaning of this term as described above.

As already remarked there is little evidence regarding the knowledge of criminal activities by members of the SD. The witness EHLICH said that the reports made by his section on the Einsatzgruppen were only sent to a very small number of people. In witness' group of ninety persons he estimated that only three or four could have known or seen reports on the shooting of Jews.

With regard to the evidence of voluntary or compulsory membership in the SD, little was said by the witnesses. It appears that the V-men were mainly volunteers although about fifty percent of them were regularly employed and paid. They could not, however, resign.

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The Defense called:

GENERALFELDMARSCHALL GERD VON RUNDSTEDT, Commander-in-Chief West until March 1945.

GENERALFELDMARSCHALL WILHELM LIST, who Commanded an Army in France, Poland and Greece until 1942.

GENERALFELDMARSCHALL ERIC VON MANSTEIN, who Commanded the 11th Army in 1942.

GENERAL DER INFANTERIE THEODORE BUSSE, who Commanded a Corps in July 1944 and was later appointed to Command the 9th Army.

GENERALOBERST HANS REINHARDT, who Commanded the Third Panzer Army and Army Group Center until January 1945.

GENERALFELDMARSCHALL RITTER VON LEEB, Commander-in-Chief Army Group North on the Russian Front in 1941.

GENERAL DER KAVALLERIE SIEGFRIED WESTPHAL, Chief of Staff in Italy from 1943 to 1944.

GENERALFELDMARSCHALL ALBERT KESSELRING, Commander-in-Chief West at the end of the War.

The following witnesses were cross-examined by the Defense on Affidavits submitted by the Prosecution. Their evidence is referred to in this report.

GENERALFELDMARSCHALL WALTER VON BRAUCHITSCH, Commander-in-Chief of the Army until 1941.

MAJOR GENERAL ADOLF HEUSINGER, Chief of the Operations Section of the High Command of the Army from 1940 to 1944.

GENERAL WALTER SCHELLENBERG, in middle of May 1943 was Chief of Section E of Amt IV of the RSHA.

GENERAL FRANZ HALDER, Chief of the General Staff of the Army.

GENERAL HANS ROETTINGER, Chief of the 4th Army of the Central Army Group.

It appears that the Counsel for the Defense wishes to establish the following:

1. The officers belonging to the General Staff and High Command did not form a defined group in the sense alleged by the Prosecution.

2. They did not conspire with HITLER to plan an aggressive war. The re-building and training of the German Army from the coming of the Nazis until 1939 was based on a theory of defense.

3. They were not in a position to influence the decision of the higher political leaders. The majority of military commanders kept clear of politics and did not subscribe to Nazi principles. They were, however, true to the oath that they swore to the Fuehrer and carried out orders according to their traditions.

4. They did not conspire with other organizations, in particular the SS, SD, and GESTAPO to commit war crimes or crimes against humanity. They sabotaged the execution of the Commissar Order, the Commando Order, and repressive measures against the civilian population of occupied territories.

5. They were not in a position to resign their commands or staff appointments, particularly after 1941, without fear of serious consequences to themselves and their families.

The evidence for the High Command may be considered under the following headings:

I. Denial that the High Command was a group in the sense used by the Prosecution.

II. Composition of the General Staff and detail of the correctness of charts submitted by the Prosecution.

III. Expansion and training of the German Army from 1933 to 1939; Its unpreparedness for war.

IV. Denial that the High Command conspired with HITLER to promote an aggressive war or that they were informed of his plans in this connection.

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V. The attitude of the General Staff towards National Socialism and its ideals. Their Oath of allegiance to HITLER.

VI. Denial of the charge of violation of the rules of war:

(1) Anti-partisan measures in Russia, Italy and the Balkans.

(2) Destruction of monuments and the scorched earth policy.

(3) The order regarding political Commissars in the Russian Army.

(4) The policy of the Army towards civilians in occupied territory in the East - Attachment of Einstzgruppen and SD Units to the Army - Deportation and Extermination of Jews.

(5) The revolt of the Polish resistance in Warsaw in 1944.

(6) The treatment of prisoners of war in the East.

(7) The treatment of prisoners of war in the West.

(8) Operations against the French Resistance and underground movements in western Europe - The Oradour Incident.

(9) The Commando Order.

(10) Treatment of the civilian population in occupied territory in the West.

(11) The charge of bombing open cities.

VII. Knowledge of specific crimes.

VIII. Whether membership was compulsory and whether the relinquishing of commands and staff appointments was possible.

I. Denial that the High Command was a Group in the Sense Alleged by the Prosecution.

One of the main points which the Defense have tried to establish in calling von RUNDSTEDT, von BRAUCHITSCH and other witnesses is that the General Staff and High Command did not form a defined group. Von BRAUCHITSCH, who was cross-examined by the Defense on 25 July 1946 on an Affidavit submitted on behalf of the Prosecution, was asked to explain the use of the word "gruppe" in his Affidavit No. 2. The Defense interpreted use of this to mean that the Prosecution regarded the High Command as a unified organization, and von BRAUCHITSCH was asked whether this was what he had meant. His answer was somewhat confused. He said that he had used the word "gruppe" in the sense of "a number of people standing together who had no mutual contacts". There was never any specially defined group in the German armed forces and there was practically no contact between the several parts of the supreme command. He denied, for instance, that he had ever had any conversation with the supreme commanders of the air force or the Navy at the same time. He thought that the number of conversations he had had with either one of them would not be more than five. In answer to further cross-examination by Dr. Laternser, he said that he interpreted the word "gruppe" as meaning a certain number of military leaders and not a combination of persons for a specific purpose.

The American Prosecution re-examined von BRAUCHITSCH and apparently tried to establish that there existed a group based on a common code of honor and tradition. The transcript, however, is far from clear on this point. That it is the object of the Defense to show that the so-called group was a mere loose association of officers holding staff appointments and commands can be seen in the evidence of von RUNDSTEDT. Von RUNDSTEDT appeared to be thinking in the terms of a

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military clique such as existed in Japan. He said that he did not know of any other nation where such a clique existed, at any rate not in Germany. The position of the German Generals was that they individually received orders and obeyed them. (See page 1333 of the transcript).

LIST on the same subject (see page 2954 of the transcript) says that there was no political union among the Generals, and that officers were appointed solely on the basis of their military qualifications. The same evidence was given by other witnesses.

Claim that Commanders-in-Chief not finally appointed should be excluded.

With respect to Document US 778 which enumerated by name those persons who are considered as belonging to the General Staff and High Command, the witness BUSSE gave a list of Generals who he alleged had not been appointed to the positions which they are stated to have held. (This evidence was objected to by the Prosecution on the grounds that the witness could not possibly know as a mere Army Commander what the exact positions of the other persons were). He said that he himself was ordered to take over the 9th Army on January 21, 1945, but his appointment was never confirmed. It would appear that it was customary for commanders of formations of the status of an Army and higher to be on six months probation before their final appointments as Commanders-in-Chief. On this basis the Defense submit that a number of Generals should be excluded from the indictment. BUSSE gave the names of eighteen Generals in this connection.

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II. Composition of the General Staff and Denial of the Correctness of Charts Submitted by the Prosecution.

Witnesses for the Defense criticized the chart contained in Affidavit No. 1 (Document US 531) sworn to by General HALDER, which purported to show the composition of the OKW. The chart was incorrect insofar as it showed KEITEL as having jurisdiction over the three branches of the Armed Forced. In reality these three branches were under the immediate command of the Fuehrer. REINHARDT disagreed with the final sentence of HALDER to the effect that the military leaders described in the chart represented the actual General Staff and Supreme Command of the German Army. He said that the General Staff consisted of the higher staff officers (the actual translation was "leadership assistants") and the respective commanders-in-chief. The chart contained in Affidavit No. 2 (USA 532) sworn to by von BRAUCHITSCH contains the same mistake. (See pages 1703, 1704, and 1705 of the transcript).

HALDER cross-examined by Dr. Laternser was asked regarding the manner in which his affidavit had been made. The Defense was understood to imply that some misunderstanding with the Prosecution had taken place as to the meaning of the chart. HALDER appeared to admit that the sketch he had made could be misunderstood. The reason for this was that connecting lines had been drawn between HITLER and KEITEL and between KEITEL, RAEDER, GOERING and BRAUCHITSCH. Then again a connecting line had been drawn between BRAUCHITSCH as Commander-in-Chief of the Army, between HALDER himself as Chief of Staff and from him to the various commanders-in-chief of the Army groups. He agreed with the Defense Counsel that this might be liable to misinterpretation because in reality BRAUCHITSCH, RAEDER and GOERING were never under KEITEL but HITLER, just as the Commanders-in-Chief of Army groups were never under HALDER himself as Chief of Staff. Commanders-in-Chief of Army groups were under the Commander-in-Chief of the Army von BRAUCHITSCH.

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After this explanation, the Defense went on to the question as to who actually transmitted the orders. HALDER was asked whether it was correct that orders went from the Commander-in-Chief of the Army to the Chief of Staff and that the latter passed on the orders independently to Army groups. He replied that the Department of the Chief of Staff was not independent although he transmitted the orders that came from the Commander-in-Chief. (The object of this cross-examination as far as the Defense of the General Staff is concerned was presumably to show that the Prosecution had presented an incorrect picture of the chain of command). HALDER admitted that the sketch he had made could be misunderstood and that it required verbal explanation.

Von BRAUCHITSCH cross-examined on his version of the chain of command, denied the existence of anything resembling a council of war. As Commander-in-Chief, he said that the commanders of Army groups had conferences with him and received and gave their advice and recommendations. With respect to his Affidavit No. 2, a chart of the High Command, the Prosecution interposed to say that they had not submitted this chart to show the chain of command, but merely the relation of one group to another. BRAUCHITSCH said that if it was thought that the chart was supposed to show the channels through which orders were given, then it was open to misunderstanding. The orders were given by HITLER in his capacity as supreme commander of the Wehrmacht to the three armed forces. He agreed with HALDER that the Chiefs of Staff themselves did not issue orders on their own initiative. (The Commissioner respectfully suggests that this account of the evidence should be read in conjunction with the affidavits submitted.)

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III. Expansion and Training of the German Army from 1933 to 1939; Its Unpreparedness for War.

According to von MANSTEIN, on April 1st, 1930, the German Army had seven Infantry Divisions, three Cavalry Divisions, no heavy artillery, tanks or air force. There were no fortifications or armament industry and no reserves of munitions. At this date preparations were made for mobilization of the Army and its raising to 21 divisions, even though one-half or one-third of the men could not be supplied with arms. The first concentration plans known as "Plan Red" were drawn up in August 1935. They consisted of maneuvers and training on a basis of three Army groups in the West in case of attack by France; two or three in the East in the case of attack by Poland, and frontier protection against attack by Czechoslovakia. The "Plan Green" was drawn up in 1936-1937 on the basis of a war on two fronts. The object of this mobilization and maneuvers was purely defensive.

Von RUNDSTEDT, who was Commander-in-Chief in Berlin during the early growth of the Reichswehr, said that in 1938 HITLER was extremely indignant with von FRITSCH, Commander-in-Chief of the Army, who had opposed his plan to increase the Army to 36 divisions. As a result von FRITSCH was dismissed and von BRAUCHITSCH appointed.

Even in 1939 the German Army was ill prepared for war. It could not be compared with the same force in 1914. Rearmament had taken place at too great a speed contrary to the advice of the high command. New divisions were formed from ill-trained troops and there was a serious lack of trained reserves and qualified tank personnel.

Defensive Nature of Training

REINHARDT, who was director of training from 1933 to 1937, said that no change took place in the methods of training after the conferences with HITLER in 1937, as a result of which it was decided to increase the Army. Training was purely

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defensive and he believed that the object of creating a powerful Army was for the protection of German territory. This was the view of most officers.

Officers of the High Command did not think that it was necessary to go to war in order to remove the burden of Versailles or to settle the problem of the Polish Corridor. (See page 1361) There was no special emphasis placed on aggressive tactics in the training program of the Army. In fact, the enemy forces with which it was supposed to be dealing in carrying out maneuvers were always considered to be superior in numbers. REINHARDT observed somewhat naively that any over-emphasis on training in offensive tactics would have been unwise because the Army training school was attended by many foreign officers. (See pages 1633 to 1634). He said that in 1938 he commanded a tank division which was ill equipped and ill trained and it was extremely fortunate that it did not have to go into action during the Czech occupation. The order for participation in the Polish campaing came as a surprise, and even then the division was not at its full strength.

Von LEEB, who with von RUNDSTEDT, was in 1935 one of the only two Commanders-in-Chief in the Army, considered that the re-armament was necessary because Germany was isolated in the middle of Europe and surrounded by countries who had already re-armed. He also thought that the German Army re-armed at too great a rate and was badly trained.

IV. Denial that the High Command Conspired with HITLER to Promote an Aggressive War or that they were Informed of His Plans in this Connection.

All the Generals gave evidence that they never attended conferences prior to August 1939 which gave any indication that HITLER was planning an aggressive war and, as before stated, that the training and apparent purposes of the Army were defensive.

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It is respectfully suggested that the excellent summary of the evidence of von RUNDSTEDT on this subject made by Mr. Conway should be read in its entirety. This is to be found on pages 3 to 6 of the summary.

The chief points made by von RUNDSTEDT were as follows:

HITLER did not inform the General Staff of his Plans

Staff officers drew up plans on the orders of the Government. The individual Commanders-in-Chief were only informed of those plans as far as their sectors or commands were involved. They could not question them. (See page 1335). HITLER never consulted the higher commanders concerning his decisions. He did not tell RUNDSTEDT, although he was Commander-in-Chief in Berlin, of his decision to increase the Army in 1935. In 1938 when he was still holding the same appointment, RUNDSTEDT was not informed of the occupation of the Rhineland until he heard it on the wireless. He was an intimate friend of von FRITSCH, but von FRITSCH never told him of any aggressive plans discussed in the conference of 5 November 1937. Von FRITSCH was removed because of his opposition to various plans, particularly the occupation of the Rhineland. In general, HITLER held conferences merely to inform his Generals of his intentions. The same applied to the occupation of Austria. BRAUCHITSCH, RUNDSTEDT, REICHENAU and BECK were all informed of the move into the Sudetenland and all opposed it. (See page 1348).

The Polish Corridor

They had faith in HITLER'S promises after the Munich agreement and with respect to the Polish Corridor. The first time RUNDSTEDT became aware of the danger of war was in May 1939, when he was ordered to command an Army group in case war should break out. Blaskowitz's statement (Affidavit No. 5, US Exhibit 537) that general officers believed that the question

of the Polish Corridor might one day lead to war, brought a firm denial from von RUNDSTEDT who said that the military leaders believed that the Polish Corridor question could be solved peacefully. He admitted, however, in cross-examination that the regaining of former German territory had become a question of honor for many members of the German Army. Asked how he could have persisted in the belief that the Polish question could be settled peacefully in view of the increase in the Wehrmacht and of hostile propaganda towards the Poles, he replied that he believed that sufficient pressure would be exerted on Poland to induce her to part with the Corridor as a result of the Russian-German pact. (See page 1387 of the transcript.) Even after HITLER'S address to the military leaders on 22 August 1939 at Berghof, the witness did not think that war was unavoidable. The Generals thought that the treaty with the Russians would act as an insurance against an attack by Poland on Germany. They left this conference under the impression that they would have another "flower war" like the entry into the Sudetenland. The military leaders, including probably von BRAUCHITSCH opposed the idea of an offensive war in the West and believed that they should wait until the enemy attacked. They did not recommend the violation of Belgium and Dutch neutrality. RUNDSTEDT said he learned of HITLER'S decision to invade Yugoslavia and Greece after the invasion had been accomplished.

The Attack on Russia

In March 1941, HITLER informed the military leaders of his intention to attack Russia. This decision was contrary to the advice of the General Staff. HITLER said he had information of hostile movements on the part of the Russians through the Japanese. There were some indications that this was in fact correct when the German Army advanced into Russia there were found new air fields and troop concentrations. Russian military maps which were captured marked out territory far into Silesia.

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Reactions of the General Staff to HITLER'S statements - Their views on events and major political problems.

When cross-exarined, RUNDSTEDT said that the march into Czechoslovakia in 1939 was a breach of the treaty and an act of aggression. He would not commit himself when asked about the entry into Belgium except to say that he believed the entry into Belgium was not an aggression because Belgian territory had already been violated by the British.

MANSTEIN also claimed that the General Staff was never consulted concerning Germany's withdrawal from the League or occupation of the Rhineland. The only people who were informed by HITLER about the latter operation were von BLOMBERG and FRITSCH. They both opposed it. As a result FRITSCH was dismissed and the politicians ever afterwards distrusted the General Staff. The German Army was totally unprepared for the annexation of Austria and MANSTEIN had to work out the orders for occupation within five or six hours.

MANSTEIN was Chief of Staff of Army Group South at the time of the Berghof meeting of 22 August when the Polish situation was discussed. HITLER appeared to consider the Polish situation hopeless because the Western powers could not or would not interfere. He also referred to a pact with Russia. MANSTEIN said he came away with the impression that a political bluff was intended and even after the 31st of August, he was under the impression that a similar result would ensue to the peaceful occupation of the Sudetenland. He declared that when the Polish campaign was finished the OKW and virtually all military commanders were opposed to the continuation of the war in the West. HITLER, however, was determined on a western offensive and as a result of the opposition of the General Staff, particularly the supreme command of the Army (OKH), the higher commanders had no further influence with him.

BUSSE was a General Staff officer in April 1939, and prepared a training program which was approved by the Chief of

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the General Staff in August. The program covered a period from the 1st of October 1939, to 30 September 1940. The witness declared that he would not have had to carry out all this work if his Chief of Staff had known that there was to be a war.

Speaking of the occupation of the Rhineland, von LEEB said that only three battalions were sent across the Rhine and that the occupation had no military significance. He considered it as symbolic. He emphasized that before the first World War the German Army training was based on offensive tactics, whereas afterwards the pendulum swung to the other extreme and only defensive measures were practiced. HITLER decided his own foreign policy and never asked for military advice.

As to BLOMBERG'S statement (USA Exhibit 536) that the entire group of staff officers believed that the questions of the Polish Corridor, the Ruhr and Memel would have to be solved some day through force of arms, LEEB said as far as the Western Sector where he commanded was concerned, this was quite incorrect. He thought that BLOMBERG was not in a position to give such information.

Defense Counsel referred to a statement submitted by the Prosecution that the Generals had applauded wildly on 22 August 1939, when they heard of HITLER'S decision, von LEEB said that in fact all the Generals there were silent and worried by the turn that events had taken. One of the remarks made by HITLER to them was, "I can assure you 100% or almost 100% that the Western Powers will not enter the war." He also confirmed that the General Staff did not, as alleged by the Prosecution, recommend the continuation of the war in the West.

BRAUCHITSCH in his Affidavit No. 4 says that when HITLER made a decision involving the use of military force, the Commander-in-Chief of the Army usually received orders and the operational plans were worked out by the OKW. BRAUCHITSCH said that when he took over the command of the Army from von

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FRITSCH, von FRITSCH never mentioned any plans for war. In answer to the Defense Counsel who was cross-examining him on Affidavit No. 2, BRAUCHITSCH said that he was convinced that HITLER only intended to exert military pressure for his political purposes. He had the same impression after the meeting of the 22nd of August. HITLER appeared to think that the Generals were not taking their tasks seriously because the Army was not really prepared for war. This was particularly true after the Sudeten crisis. BRAUCHITSCH was not re-examined by the Prosecution in regard to this matter.

The Air Force

Speaking of the German Air Force, KESSELRING said that it was not prepared when the Polish campaign started and was not really ready for the war in the West. This was partly due to the fact that until 1939 no important air bases could be built for a mobile war. He regarded the war of 1939 and 1940 as an "improvised war" as it was not properly prepared. KESSELRING denied that he knew of any intentions to attack America. He had no information to offer concerning the proposed invasion of England. In any case, it was purely a military matter and had nothing to do with aggression.

V. The Attitude of the General Staff towards National Socialism and its Ideals. Their Oath of Allegiance to HITLER.

The general line of defense of RUNDSTEDT, MANSTEIN and the other officers was that the Generals were soldiers who remained aloof from politics. A soldier gives his oath to his country irrespective of who is the chief of the state and free from political prejudice. RUNDSTEDT quoted the axiom "right or wrong my country". Affairs of State should be decided by the head of the Government and they were no part of the duties of a General. Most of the Generals disagreed with HITLER'S racial

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theories and Lebensraum but they felt that these were matters that did not concern them in their profession. (See pages 1334, 1380 to 1382).

Cross-examined regarding the oath of allegiance given to HITLER, RUNDSTEDT said he did not believe HITLER had broken his oath to the German people when he attacked Czechoslovakia. He was, however, reminded by the Prosecution of the fact that HITLER swore that he had no further territorial aims. He disagreed with many of HITLER'S orders and considered that the Stalingrad operation was pure insanity. Asked how he could serve with honor a leader whom he appeared to regard as a scoundrel, he refused to answer the question. HITLER'S object in making the Army take the oath was to bind the Army closer to him and thus prevent a repetition of the Roehm Putsch.

The Army and the Party -- Its Support for HITLER

REINHARDT described how the SA was at one time aspiring to become an Army in its own right, particularly in 1934. Von FRITSCH, however, prevented the SA receiving any military training and strongly opposed the granting of facilities for training being given to SS units. There was considerable friction between the Army and the Party but in general the military leaders supported HITLER because of his extraordinary success in bringing about the recovery of Germany.

Like the other Generals, REINHARDT said he considered discipline and obedience to be the first duty of a soldier. It was true that German officers were trained that obedience should only extend to orders which were legal. The application of this rule in Germany was, however, difficult since all orders by HITLER were technically legal.

Conflicts of Conscience

All German Commanders had constant conflicts of conscience and anxiety with regard to responsibilities. In general the discipline of the troops had to be considered first where a matter of

international law was involved. Objections both oral and written were frequently made to Commander-in-Chief. REINHARDT said he was worried about the criminal purposes of HITLER after the Jewish program of 1938. It was not, however, until he and his brother officers received the Commissar Decree that he was confronted with the decision as to whether as a matter of conscience the order should be carried out or not. The Prosecution pointed out to him that the Reich Military Law 64 authorized a refusal of criminal orders. (See page 1713).

The Generals felt they had to make excuses for some of the excesses of the Nazis because they were "abuses inherent in a revolutionary movement".

VI. Denial of the Charge of the Violation of the Rules of War.

(1) Anti-partisan measures in Russia, Italy and the Balkans.

Russia

In describing the war in Russia, von MANSTEIN said that it was a war fought with great bitterness on both sides. The Russians fought for every inch of their country and committed atrocities themselves. HITLER ordered that the troops should not be punished for action they took against the population and this greatly complicated the position of higher commanders, in maintaining discipline.

Questioned concerning the activities of Einsatzgruppen, von MANSTEIN said that he had been informed that it was their function to report on the population and that they carried out their activities in the rear of the Army. He never saw any Einsatzgruppen or SD in his area though he occasionally saw some of their reports which mentioned the black market and the political attitude of the population.

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REINHARDT said that in the summer of 1942 partisan warfare increased. The partisans were often in liaison with Russian units, and as a result he had to take action against them to protect his own lines of supply and communications. These partisans acted in total disregard to rules of warfare. (See pages 1679 to 1680). He disputed the statement of General HEUSINGER in a Prosecution Affidavit No. 20 (USA 564) that the methods of anti-partisan warfare gave the Army commanders an opportunity to carry out the systematic reduction of Slavs and Jews.

He defined as a partisan anyone who was found with a weapon, or a person who carried out an act of sabotage. He was primarily interested in maintaining the discipline of his troops and did not permit them to accord harsh treatment to partisans. The best proof of this was the fact that large groups of partisans were taken prisoner.

Italy

General WESTPHAL, who was Chief of Staff to KESSELRING in Italy, stated that KESSELRING had a "great sympathy for the Italian people". He said that in the Autumn of 1943 partisan activities in Northern Italy were a serious menace to the German troops and increased particularly after June 1944. There was an SD representative with whom he cooperated in regard to matters connected with partisans. On one occasion partisans attacked a German police company in the streets of Rome and 35 men were killed and about 80 wounded. He managed to stop the burning down of buildings as reprisals. A decision then had to be taken as to whether hostages had to be shot. As a result of an order by the OKW, the SD leader Kappler informed KESSELRING that there were over 300 persons under arrest who were already sentenced to death. KESSELRING raised no objection that these people should be regarded as hostages and executed. For purposes of propaganda, the Italian people were informed that these people had been taken as hostages, although in fact they were already under arrest.

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WESTPHAL denied that the order of the OKW to take hostages from the population was ever carried out. KESSELRING himself gave evidence that this was the correct version. As far as possible, he tried to treat partisans on a military basis.

The Balkans

LIST, who commanded an Army in the Balkans, discussed partisan activities. He said that after the end of the Greek campaign, the German Army treated the Greek prisoners with great leniency. He denied that there were any repressive measures against partisans.

There does not appear to be any evidence regarding the contact between the German Army and Tito. The evidence on this subject was given by witnesses for the Waffen SS. (See evidence of Obersturmfuehrer Graf for the SS).

(2) Destruction of Monuments and the Scorched Earth Policy.

MANSTEIN claimed that the High Command tried to limit the destruction of property as much as possible. The destruction of churches in Russia was due to a large extent to the considerable fighting which took place within various cities. This was particularly true of Stalingrad, Kiev, Charkov, Rostov, Oddessa, Sebastopol and Rovno. He observed that Stalingrad was fought for house by house for an entire month, and Sebastopol was defended for eight months. The Economic Ministry ordered the destruction of all industries, but the Germans found that almost all industry was completely destroyed when they arrived. He gave as an example the oil works at Maikop and the steel industry at Kirtsch.

Destruction of Civilian Houses

REINHARDT also denied a policy of wanton destruction. He said that most of the destruction was caused by the Russians themselves in their retirement. He knew nothing of the destruction of the Tchaikowsky Museum at Klien. He thought that the situation there in December 1941 was so critical that the German troops would not have had a chance to concern themselves with

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museums. Cross-examined on USA Exhibit No. 51 (HITLER'S Order to destroy everything, including the blowing up of stoves in houses), witness admitted having heard of this order. He said he paid no attention to it because it was obvious that every existing means of shelter should be preserved.

He agreed that in the Spring of 1943 when Army Group retreated, large scale destruction was ordered. It was only carried out, however, insofar as it was necessary to maintain the security of the retreating Army. He disobeyed the order insofar as it required the destruction of houses that could afford shelter to the troops. The houses of the civilian population were destroyed only where military action made it unavoidable. He denied having ever heard of the orders for the destruction of Moscow and Leningrad.

Leningrad

Similar evidence was given by von LEEB regarding the order to destroy Leningrad. Von LEEB who was Commander-in-Chief of the Army group encircling Leningrad said that he proposed to KEITEL that the Russian population should be transferred to Russian territory by means of a corridor established south of Schlusselburg. He proposed to negotiate with the Russians for the possible transferring of population in this fashion. It was his concern that the population of Leningrad should not starve. He said that only necessary military objectives were shelled in the Leningrad sector. These included steel works and dock installations.

(3) The Order Regarding Political Commissars in the Russian Army.

The Generals commanding on the Russian front were unanimous that this order was disregarded.

REINHARDT said that he complained to von MANSTEIN, and von MANSTEIN complained to von LEEB.

The order was not in fact rescinded but it was sabotaged by all the Generals concerned. These included General

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HOEPPNER who commanded the armored group to which MANSTEIN and witness' corps belonged. Their protests were turned down but after consultation with his divisional commanders, REINHARDT directed that the order should not be carried out and should be disregarded.

MANSTEIN confirmed this story and said that it was not practicable to sort out the Commissars. Few were captured, many committed suicide or removed their insignia. To his knowledge no General Officers in his area ever carried out the orders.

RUNDSTEDT appears to have actually been at the conference when the Commissar order was first issued by HITLER. HITLER left the conference room immediately after he had made his speech and gave the military commanders no opportunity to protest. The witness learned later that Field Marshal von KLUGE had protested strongly to the Fuehrer. All of the Generals protested against the orders to von BRAUCHITSCH who said he would do his best to have the orders rescinded. Cross-examined, he was informed of testimony to the effect that German officers admitted having seen instances of ill treatment of Soviet Commissars. He denied that he ever received any instructions that they were to be executed. This denial was confirmed by other witnesses, including von LEEB. Von LEEB said that the following Generals had told him that they did not carry out the order and were strongly opposed to it: Lieutenant General von BOOT, Commander of the First Armored Corps; Lieutenant General LINDEMANN, Commander-in-Chief of the 50th Armored Corps; Lieutenant General REINHARDT, Commander of the 41st Armored Corps, and Lieutenant General von MANSTEIN, Commander in Chief of the 56th Armored Corps. The last two are, of course, the witnesses previously referred to.

(4) The Policy of the Army towards Civilians in Occupied Territory in the East - Attachment of Einsatzgruppen and SD Units to the Army - Deportation and Extermination of Jews.

Most of the witnesses testified that it was their policy to keep on good terms with the civilian population in Russia.

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BUSSE said that before he entered the Russian campaign a counter-intelligence officer informed him that Einsatzgruppen of the SD would be attached to the Army in order to perform political police duties. These groups were to receive their orders directly from HITLER and would be connected with the Army only for pay and maintenance. This was a departure from the previous ruling that all police duties should be performed by the Army. The only contact wich the Army had with these groups was through Army Counter-Intelligence and Supply Sections. They did, however, receive military information from the SD. BUSSE in cross-examination denied any knowledge of the activity of the SD in western occupied territory.

He admitted that Intelligence officers of the Army received monthly reports as to the situation and mood of the population in the rear areas. He said it was quite impossible in his staff that information regarding the use of SD units to exterminate people should have come to the attention of Army Intelligence Officers, otherwise he would have heard of it. He was told of an order issued by Kleist on December 16, 1942 in which there was the following sentence, "The troops are justified and even have the duty in this battle to use, even against women and children, all means of force if it will lead to success." He could not recall this extract. Informed of statements of Oldendorf, head of the SD, that the 11th Army must have been informed with regard to the activities of Einsatzgruppen and that executions were to be held a certain distance from Army headquarters, the witness denied any knowledge of such an order. He did not think it possible that officers of the 11th Army attended the executions.

REINHARDT denied the statement of Oldendorf that SD groups were subordinate to Army Commanders. As an Army Commander, he was unacquainted with any orders received by Einsatzgruppen. He adopted a policy of living in amicable relations with the civilian population. He arranged that the Army should assist the civilian population in every way and punished any violation of

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this order.

Von LEEB also said that the SD units or Einsatzgruppen were attached to the Army only in an administrative sense. The general attitude of the Army commanders who gave evidence was that they were far too busy fighting to know about these special units.

The Defense Counsel cross-examined General SCHELLENBERG regarding his affidavit for the Prosecution according to which responsible units of the Army were to help in all activities of the Einsatzgruppen of the SD. Asked by Dr. Laternser what he meant by "all activities" he said that this meant the keeping free of the rear areas for the fighting troops. SCHELLENBERG, who belonged to Amt III himself, said that he felt some distruct towards the Quartermaster General WAGNER with whom this arrangement had been made. WAGNER suspected that it was HEYDRICH'S intention to establish his own private Army among the combat troops. There was a general distrust of HEYDRICH and the feeling was that a situation might come about where there would be two masters on the same front. SCHELLENBERG evaded the question as to whether he knew of any case where a member of the Security Police or SD had been punished by the Army. He insisted, however, that as stated in his Affidavit the Einsatzgruppen and SD agents were under the disciplinary control of the Army Commander.

Jews

With regard to the extermination of Jews, very little evidence was given on this subject, except to the effect that the High Command were in no sense concerned with the activities of EICHMANN.

MANSTEIN reiterated that he had only once heard of the shooting of Jews. On the night before he moved his headquarters from Nikolawew an officer had told him that the SS had recently shot some Jews in a town to the rear. MANSTEIN left a message for the Commander to the effect that he would not tolerate such

activities. His observation on the statement of Oldendorf that Einsatzgruppe D had killed 90,000 Jews in one year within the area of the 11th Army was as follows: The Army area was from Chernovitz to Rostov about 1200 kilometers long and 400 kilometers wide. Three or four German armies operated in this area. There were very few Jews in the sector as they had already taken refuge elsewhere. If the SD did in fact shoot Jews, it would have been done in a very lonely spot. At any rate, he never heard of it.

Shooting of Civilians

He explained the alleged shooting of civilians in the caves of Inkerman as being due to demolitions by the Russians themselves. The destruction of the railroad station at Sebastopol was purely because it was a stronghold. The Army had no idea that there were civilians hidden there. He thought it was completely impossible that 195,000 people were shot at Kiev. He also regarded as impossible the charges that 250 school children were poisoned at Kirch and 144,000 persons drowned in the Black Sea.

Witnesses for the General Staff also testified that the Army was not concerned in the deportation of foreign workers. If they were asked to provide workers for SAUCKEL, which was the case with MANSTEIN, they requested agricultural workers should not be removed.

The allegation that the German Army removed 7,000,000 horses from Russia is incorrect. This number of horses would have been sufficient for 750 divisions on the basis of 4000 to a division, whereas the German Army had only 150 to 200 Infantry Divisions at any one time on the Eastern Front.

(5) The Revolt of the Polish Resistance in Warsaw in 1944.

REINHARDT was in charge of Army Group Center at the time of the Warsaw uprising. General von dem BACH, who was in charge of the Einsatzgruppe engaged in suppressing the rising, was not

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under his command but immediately under the Reichsfuehrer SS. The 9th Army, which was in his Army group, was especially interested in the early suppression of the rising because of the Russian attack pressing on Warsaw from the East. When he took over command of the Army group, he had heard of the atrocities committed by the SS Brigade Kaminsky. This SS unit consisted entirely of Russians who were later convicted of these atrocities and shot. REINHARDT asked von dem BACH to bring the action to an early conclusion and was personally active in procuring the surrender of General BOR. The order for the total destruction of the city came from HIMMLER. In cross-examination REINHARDT admitted that there were a number of Army troops, such as engineers and artillery men, specially attached to von dem BACH during the suppression of the Warsaw rising.

(6) The Treatment of Prisoners of War in the East.

The witnesses declared that they tried to see that prisoners were treated according to the Geneva Conference. They admitted that Germans killed Russians in revenge for the killing of German soldiers. Prisoners of war were not the responsibility of the fighting troops but were sent to camps at the rear. MANSTEIN claimed that he had punished a soldier for hitting a prisoner of war. REINHARDT admitted that owing to the extremely large numbers of prisoners of war captured in the East it was necessary for the Army group to play some part in their administration. He was aware that many died but this was largely due to the encirclement actions that took place, to the lack of housing facilities, the general poverty of the countryside and severe winter of 1941. He said that a number of Russian prisoners of war felt that they were being treated well since they remained with the German troops and did not choose to escape. Some of them even fought with the Germans. Cross-examined on Document 108 PS., regarding the shooting of weak and starving prisoners of war in front of the population, he

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said that he had never heard of this. REINHARDT acknowledged that fur boots were removed from Russian prisoners of war during the winter of 1941 and 1942. He considered this justified because the Russian soldiers in question had other shoes.

(7) The Treatment of Prisoners of War in the West.

RUNDSTEDT also declared himself to be a firm believer in the treatment of captured prisoners of war according to the Geneva Convention. He said that he had heard of the shooting of 100 American soldiers at Malmedy, whereupon he immediately ordered a detailed report from General MODEL. (This was when RUNDSTEDT was Commander-in-Chief West at the time of the Battle of the Bulge.) The statement of the witness von DERESSEN that the order for this execution must have come from the High Command is completely false. The actual order was that as many prisoners as possible should be taken in order to create favorable propaganda in Germany. (See transcript pages 1376 to 1377).

There does not appear to have been any evidence given regarding prisoner of war camps in Germany.

(8) Operations Against the French Resistance and Underground Movements in Western Europe - The Oradour Incident.

RUNDSTEDT said that the only way to prevent the execution of repressive measures against the Resistance was to commit sabotage of the orders of HITLER. He did not think that combined opposition by all the Generals against the illegal methods proposed in Russia and France would have resulted in their withdrawal. The only result of such opposition would have been the replacement of a good type of General officer by SS men.

The same form of sabotage that was applied to the Commissar Order was applied to measures in France against the resistance. The military commander worked with the SD and Security Police, receiving orders from the OKW. Commander-in-

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Chief West, the post held by RUNDSTEDT, also maintained order in France when the resistance movement became more intense in the winter of 1943 and 1944.

HITLER accused the High Command in France of too much indulgence with the Petain Government and lack of energy in repressing the resistance movement.

RUNDSTEDT said that for a long time he accepted the losses of his troops as a result of activities of the resistance without reprisal. He made frequent appeals to Petain to warn the underground to stop their aggressions. Finally it became necessary to take severe measures against the resistance movements. In the operations that followed no planes and very few tanks were used. The German troops never bombarded the whole locality but confined their action to particular strong points.

Oradour

With regard to the Oradour incident, RUNDSTEDT learned about this from the Vichy Government. The SS Division who had set fire to the church in which women and children were hiding was on the march from Southern France to Normandy. He did not know the results of the inquiry into the incident. The SS Division in question was one which the witness had requested himself as a reinforcement. He declared, however, that he was powerless in regard to disciplinary matters where SS formations were concerned.

With regard to the order of the OKW instructing military commanders to fight the resistance with all means, RUNDSTEDT was of the opinion that such harshness was necessary and could not be avoided.

(9) The Commando Order.

With regard to the Commando Order, PS 498 and PS 493, RUNDSTEDT, KESSELRING and LIST claimed to have sabotaged this order in the same way as had been done with the Commissar Order in Russia.

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According to RUNDSTEDT no one was ever actually handed over to the SD under these orders. The SD cooperated with him in this respect. In cross-examination RUNDSTEDT admitted that strictly speaking his act in sabotaging the order constituted disobedience. He said he sent in no reports concerning it in spite of paragraph 4 of Document US 551, which called for daily reports from the Commander-in-Chief on the subject. He was shown Document 531 from his own headquarters in which it was reported that Commando units had received the treatment prescribed for them. His answer was that two or three cases may have taken place but on the whole the order was sabotaged.

WESTPHAL describing operations in the desert in 1942, said that a nephew of Field Marshal Alexander wearing a German cap and armed with a German pistol was found behind the lines. ROMMEL ordered that he should be treated as an ordinary prisoner of war.

(10) Treatment of the Civilian Population in Occupied Territory in the West.

RUNDSTEDT declared that the High Command at all times attempted to maintain good relations with the civilian population in France and Western Europe. He cooperated with Marshal Petain, doing all in his power to alleviate the situation of the French population. (See transcript page 1375).

(11) The Charge of Bombing open Cities.

The only evidence given on this point was by General BUSSE, who gave an account of the bombing of Rotterdam. He said that he was under orders to establish contact with German airborne troops as soon as the bridges north of Rotterdam were constructed. He arrived about 24 hours after the time it was captured. The military commander in the town told him that it had not been possible to stop the attack because the surrender discussions had been retarded. He was informed through other reports while he was in contact with the airborne troops that the reason for the release of the bombs after the city had

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capitulated was that a certain divisional radio link was not functioning properly. (See evidence of Field Marshal MILCH before the Tribunal regarding the bombing of Warsaw and Coventry.)

VII. Knowledge of Specific Crimes.

The Generals of the High Command declared that they simply received orders and that they were unacquainted with the plans of the politicians.

MANSTEIN said that they did not participate in any political situation and were not informed of them until after the decisions had been reached. The giving of advice by a subordinate is an idea that does not exist in the German Army. Consequently, the conception of a council of war or High Staff conference was not even considered. The extent of the knowledge of military leaders depended largely on their rank. Those who knew most were the immediate groups surrounding HITLER, e.g., the heads of staff of OKW and Commanders-in-Chief. They would know decisions earlier than other people. They possibly were able to speak with HITLER before a decision was made public. Chiefs of Staffs of different branches of the OKW, with the exception of GOERING, were not asked concerning the decisions made. They might, however, be asked to give advice concerning the decision if it affected their own departments. The Commanders-in-Chief of the Armies in the field, however, only learned of a decision after it had been made. According to the rules of secrecy, they only learned what was of immediate use to them. Meetings with HITLER before the beginning of a campaign consisted of an announcement of his intentions, and even a general discussion of any kind was impossible.

MANSTEIN said that on several occasions he tried to get HITLER to give up his military leadership but without any success.

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All the witnesses denied that they knew of the atrocities carried out by the Einsatzgruppen. (This has already been referred to in Section VI, paragraph 6.) RUNDSTEDT denied that HITLER had informed the various Commanders-in-Chief of the proposed liquidation of the Jews in Russia. It was his opinion that the entire Jewish operation was carried out under the cover of secrecy. As to conditions in concentration camps, he gave evidence that Generals HALDER and FALKENHAUSEN had been sent to Dachau as prisoners for a year and had not the slightest idea of what was happening. (Transcript page 1362).

VII. Whether Membership of the High Command was Compulsory and Whether Resignation was Possible.

The General Staff witnesses declared that resignation was not possible. This was particularly so after Stalingrad. In 1941 HITLER issued an order which said that High Commanders like private soldiers would not say that they refused to continue to fight.

Various witnesses gave evidence that they requested their removal as a result of differences of opinion with HITLER. This particularly applied to RUNDSTEDT and von LEEB, who were dismissed, although the former was later reinstated and in March 1943 became Commander-in-Chief West. Any resignation against the will of HITLER would have been impossible and would have been considered as mutiny. Disastrous consequences to the family of the General would have followed.

Various witnesses were asked why they took over command of the Army at the end of the war when the situation was already desperate. BUSSE, for instance, said that he was moved by the sight of miserable groups of countrymen travelling west and wished to protect them from the enemy coming from the East. He said that he followed the example of many other soldiers who have preferred death to surrender.

As the war progressed, HITLER'S attitude towards his Generals became increasingly distrustful.

The Generals considered that they could not refuse responsibility in spite of the fantastic orders they received because such conduct would have been unsoldierly. It would have constituted desertion of their troops. The case of General HOEPPNER who had refused an order was cited. HOEPPNER was disgraced and his family persecuted.

REINHARDT expressed the opinion that HITLER could have been induced to resign immediately after Stalingrad, but he did not believe that HITLER at any time could have been persuaded from his opinions by any united action of the higher military leaders.

MANSTEIN thought that the removal of HITLER in 1944 would, if successful, have led to civil war in Germany and to a complete military defeat. The troops themselves believed in HITLER and consequently it was the duty of the officers to carry on.

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THE REICH CABINET

The only witness for the Reich Cabinet was Franz SCHLEGELBERGER. SCHLEGELBERGER was a State Secretary in the Ministry of Justice, having previously held the same position in the von PAPEN cabinet. He remained in the HITLER cabinet until August 1942.

The transcript of the witness's evidence seems vague and confused. He said that in 1933 the Nazis were given power to issue new laws and to modify the constitution. In 1934 the offices of Reich Chancellory and Reich President were merged in HITLER, and all parties prohibited except the National Socialist. With the outbreak of war, all departments became more and more concentrated. As early as 1937 and 1938 the HITLER Government had become a "tyranny". The functions of the Fuehrer were further coordinated by the Reichstag decree of 26 April 1942.

Cabinte Meetings

The witness said that as State Secretary he only participated in one cabinet meeting in 1933. On this occasion he was asked by HITLER whether it was possible to impose the death sentence or a severe imprisonment on a person who abused the SA uniform. He replied that no such law existed and HITLER violently reprimanded him, but later shook hands and said that he was right.

The practice grew up whereby HITLER preferred to talk to ministers individually rather than hold cabinet meetings. It was HITLER'S practice that no one must know more than was necessary for carrying out his own task. The last cabinet meeting where there was any discussion took place was in 1937. HITLER did not inform his ministers before making important political decisions or announcing laws.

In cross-examination, SCHLEGELBERGER admitted that there was some cooperation between ministers on specific natters. Legislation was brought about by circulating drafts of laws among the cabinet members. The drafts, however, were only signed by those whose department was concerned.

Applications to resign were refused except in one case, which was referred to in cross-examination.

SCHLEGELBERGER then gave some evidence as to conflict between the Party and the Ministry of Justice. The Party tried to obtain control of Justice within the State in spite of the opposition of the Ministry. Guertner tried to stop such incidents as the appearance of Gauleiters at trials to influence Judges and interference with the police by the SS.

On cross-examination the witness stated that it was possible that he had introduced police and SS jurisdiction in occupied territories.

It is not entirely clear what this witness was meant to establish. It seems that the Defense wished to show:

(1) That all functions of the State gradually became concentrated in HITLER, who promulgated laws on his own initiative without consulting other departments.

(2) That after 1937 there was no meeting of the Reichs cabinet at which any discussion took place.

(3) That HITLER dealt with individual ministers as a result of which there was no coordination among the different departments.

(4) That the Ministry of Justice opposed the interference of the Nazis in the legal system, and the distortion of justice for political ends. Nothing, however, is said concerning the attitude of other government departments towards the Party.

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The Defense called the following seventeen witnesses:

MAX JUETTNER, SA Obergruppenfuehrer, Permanent Deputy of the Chief of Staff of the SA.

DR. EMERICH DAVID, Vicar of the Diocese of Kologne since 1931.

THEOPHIL BURGSTAHLER, Clergyman.

HEINER SCHAEFER, Commandant of Oranienburg Concentration Camp from 1933 to 1934 and later in charge of penal institutions in Emsland.

FRIEDRICH HABENICHT, SA Brigade Leader in Wuppertal in 1933 and President of Police in 1934.

FRIEDRICH KLOPP, Chief of Amt "Schrift" (Publications Department of the SA).

FRANZ BOCK, SA Obergruppenfuehrer in Dusseldorf.

HANS OBERLINDOBER, President of the National Socialist War Veterans Associations (Frontkaempferbundes).

DR. GOTTFRIED BOLEY, Ministerialrat in the Reich Chancellery in Berlin.

DR. KURT WOLF, Lawyer.

DR. EINHART LATHCKE, Konsistorialrat of the Evangelical Church.

DR. ERNST GEIER, former Hauptsturmfuehrer. President of Nuremburg Branch of the State Railways.

The following witnesses appeared for organizations alleged to have been incorporated into the SA at its foundation:

For the Stahlhelm:

MARTIN MAUTZ, Chief of Administration in Sigmaringen, and Landesfuehrer (Provincial Leader) of the Stahlhelm.

OTTO FREIHERR VON WALDENFELS, Landesfuehrer (Provincial Leader) in Bavaria.

THEO GRUSS, Paymaster of the Stahlhelm who subsequently directed its liquidation.

For the NS Reiterkorps (Riding Units):

KARL OTTO VON DER BORCH, Provincial Riding Leader in the Ostmark.

RICHARD WALLE, Obertruppfuehrer in Westphalia.

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It seems that the defense wished to establish the following:

(1) That the SA did not conspire with HITLER and the Party to commit crimes under Article 6 of the Charter.

(2) They were not employed as a tool of the Party to eliminate all hostile forces by terror or to suppress the trade unions.

(3) They were not engaged in spreading anti-Semitic and militaristic propaganda. Their training and activities were not military.

(4) They did not encourage the persecution of the Church or the suppression of religious views.

(5) Through their contacts with foreign countries they endeavored to maintain peaceful international relations and were ignorant of any plans for an aggressive war.

(6) Certain groups within the organization such as the Stahlhelm and the NS Kraftkorps were transferred contrary to their wishes into the SA in 1933 and 1934. Civil servants and others were compelled to join the SA under pressure.

(7) After the Roehm Putsch their political influence so far declined that they cannot be considered a "tool of the conspirators".

The evidence for the SA may be considered as follows:

I. Composition and Organization of the SA.

(1) Origins and Purposes of the SA.

(2) Its composition and chain of command.

(3) Recruiting and conditions of membership.

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II. Defense of the SA Against the Crimes Alleged by the Prosecution.

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I. Composition and Ordanization of the SA.

(1) Origins and purposes of the SA.

Before 1933.

Max JUETTNER had been a member of the SA since 1933 and was previously a member of the Stahlhelm. He gave a long and detailed account of the early history of the SA. The SA was an organization which grew up out of the need and suffering resulting from Germany's loss of the last war. In the early days the immediate reason for its formation lay in the necessity for the protection of National Socialist speakers at public meetings. These meetings of the Nazis were in constant danger of attack by political opponents. It was, in fact, impossible in areas like the Ruhr and other industrial districts for the Nazis to hold meetings at all unless they were protected by a bodyguard. The police at that time were too weak and were themselves opponents of the Nazis. JUETTNER affirmed that the SA were never aggressive during this period. They were not armed. They were searched for weapons before entering meetings. Such was the situation of the SA until the Nazis came into power in 1933. The SA itself seems to have grown up gradually and on a local basis units were created in various parts of Germany

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according to necessity of affording protection to national socialist meetings. Largely because of unemployment in Germany it grew in popularity and in 1933 numbered 300,000 men. (See page 200 of the transcript).

After 1933

By 1934 as a result of the joining of the Stahlhelm, the Kyffhauserbund and other organizations, its membership had risen to 4,500,000. After the Death of ROEHM, Victor LUTZE became its Chief of Staff and he immediately set about the reduction of its members. He began by removing people of an unsatisfactory character and released a number whose membership was only honorary. He dismissed the Kyffhauserbund and instituted an examination for all members. Those who did not have the necessary qualifications were then dismissed from the SA. As a result of these reductions the SA of 1939 numbered 1,500,000 men.

(2) Its composition and chain of command.

JUETTNER drew a chart showing the organization of the SA submitted by the Defense as Exhibit 3B. This shows the higher SA Leadership at the top with staffs and adjutants attached. Below the leadership come five deputies - south, west, middle, north and northeast. Deputies are responsible for the Gau organization and subordinate local units. These local units included Sturmbanne (Regiments), Stuerme (Companies) and Truppen (Platoons). Questioned by Defense Counsel as to whether division into such units did not imply a military character, JUETTNER answered that these units were merely local groups of no military significance. The strength of the units varied according to the locality. In his view any comparison with the Army was ridiculous.

On page 197 of the transcript will be found evidence as to the supreme command of the SA. According to JUETTNER the

supreme commander of the SA was HITLER, the highest SA leader. Reference was made to the organization book of the SA submitted by the Prosecution where it is stated that the "Chief of Staff represented the Fuehrer within the SA". Asked whether the Chief of Staff had any discretion, JUETTNER said he could protest against the orders which he received. The Chief of Staff issued the orders to lower formations who were also subject to the Political Leaders. As example, he gave the organization of mass meetings to help in emergencies. On occasions SA units were used by the police, but the SA as a whole had no police responsibilities. (See Part II, paragraph 6, with reference to "Assistant policemen".) The contact between the SA and the Political Leaders was limited to their particular spheres of activity. The Chief of Staff could oppose orders of the Political Leaders if he disagreed with them.

JUETTNER said that after the death of ROEHM the Chief of Staff of the SA had absolutely no influence on political decisions.

(3) Recruiting and conditions of membership.

Dr. DAVID, Vicar of the Catholic Diocese of Cologne since 1931, confirmed that the rapid increase in the membership of the SA during the years 1932 to 1934 was caused by social and economic discontent in Germany. Another reason was the pressure exerted by Nazi propaganda against the republican type of government. After 1933 it was a definite advantage in the economic sense to belong to some organization connected with the Party. The SA offered the average individual the best means of seeking this benefit without coming into too close a contact with the extreme National Socialists.

JUETTNER said that the first SA men were veterans of the last war or young "idealists". They were not "terror gangsters" as the Prosecution alleged but patriots. Among

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them were a number of clergymen who remained in the SA until the end. Two witnesses as to character and past record were required before acceptance. He admitted that after 1933 a large number of people of bad character joined the organization but these were removed as a result of the purge conducted by LUTZE.

In general, discipline in the SA was good. The type of disciplinary measures authorized included confinement to quarters, reduction in rank or imprisonment. BOCK said it was seldom necessary to have recourse to such measures. Excesses which occurred in Camp Hohenstein resulted in the punishment of the guilty SA leaders who were sentenced to long terms of imprisonment and dismissed from the organization. (See Part II, paragraph 6).

Pressure exerted on certain groups to join the SA.

Evidence as to the pressure exerted on people to become members of the SA was given by a number of witnesses. The cases of the Stahlhelm and Reiterkorps organizations are dealth with separately in paragraphs 5 and 6 below. Dr. DAVID was of the opinion that membership, in general, was always influenced by a certain pressure. This pressure was chiefly economic consisting in any financial advantage which might be gained. This particularly influenced students in high schools and colleges. This witness stated that membership in the SA was otherwise generally voluntary.

Civil Servants before 1933.

Dr. Gottfried BOLEY, who was a personnel expert in the Reich Finance Ministry and Rich Chancery, said that civil servants were legally compelled to join the SA. Before 1933 only a small proportion of civil servants belonged to the Party or the SA. Apparently under the Weimar Constitution, officials had to belong to a certain party. (See page 291 of the transcript). From his observation the greater part of the civil servants rejected National Socialism. Those who

voted for it prior to 1933 were probably subordinate officials.

Civil Servants after 1934.

At the beginning of the National Socialist regime laws were passed which placed civil servants and other officials in a position of great difficulty. According to the civil service code, the official owed the State absolute obedience. Since 1933 onwards the State identified itself with the Party and its organizations. The official, therefore, owed obedience to both. On page 295 of the transcript BOLEY describes how after the 30th of January 1933 directives were issued to the effect that civil servants should take an active part in the Party, and by a law of 28 February 1939, candidates applying for State officers were obliged to belong to the Party or one of its organizations. Prior to this order there had been numerous directives and statements which urged officials to join in the most peremptory manner. BOLEY said that at the time of the entry of the Nazis into power he was a young man as the outset of his career. He did not have a single colleague who did not belong to the Party or one of its branches.

Consequences of refusal.

The act of refusing to join the SA, for example, would have resulted in the most severe difficulties and dangers to the official concerned. After 1939 it was legally impossible for a civil servant to resign from his department. There were numerous other ordinances demanding that civil servants should support the national socialist State in every way. He characterized the situation of the civil servants by saying that they were "all together in one boat and no one could be permitted to leave". A similar situation applied to students.

Regulations regarding University Students.

The Defense referred to regulations of the University of Munich and Marburg. According to these regulations all

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students before their third year had to serve in the SA "University Office" and were then assigned to an organization. BOLEY estimated that when he was at the University there were about 150,000 people studying in all the universities and colleges in Germany. If females and those who were physically unfit were not considered in this tital, he estimated that at least 100,000 remained who were forced to join one organization or another. The period involved was 1933 to 1934. An attempt was made by the Prosecution to make the witness say whether any of these 100,000 people had joined "willingly", but no definite answer seems to have been obtained. (See page 301 of the transcript).

Other regulations of this description were submitted by Defense Counsel. He quoted from an affidavit by one Dr. WEBER dated May 18, 1946. This said that the Gaustudentfuehrer DOEFFLER had delivered a speech in 1936 at the Law School of the University of Munich. DOEFFLER declared that every student was attending college at the expense of the State, and therefore the State expected that the student should serve the Party or one of its organizations. In the case of any student who considered himself "too good" to do so, he (Dr. WEBER) would see to it that the student would have to fulfill the functions of a "streetcleaner". He would also see to it that such a student would never be admitted to any examinations. At this time it was already known to wide circles of the public that refusal to comply with such orders or even the suggestion of doing so would result in "supervision by the SD". (There was considerable discussion during the hearing of this witness as to whether the evidence above fell within paragraph 6 of the Order of March 13. The discussion referred to will be found on pages 296 to 309).

(4) Training.

The Defense contend that the SA was in no sense a military or para-military organization. Its training was not designed to encourage militarism or aggressive war. This latter aspect is dealt with in Part II, paragraph 4. It is the purpose of this section of the report to describe the evidence given as to the nature of the training within the SA.

Training was not Military

A great deal of the hearing on Commission was taken up with a discussion on the interpretation of various pages from the publication, "The SA Mann". The Defense contend that phrases which the Prosecution describe as militaristic could equally well be described as encouraging good physique and what is called "idealogical composure". There was no reason to see anything aggressive in the enthusiasm of the SA members for their tasks. BOCK was shown a document from the "SA Mann" of February 3, 1939, page 3. His attention was called to the caption under a picture of von BRAUCHITSCH and LUTZE attending an SA parade in Berlin. Questioning on this document elicited from the witness the statement that the SA training schools gave instruction in "political soldierdom". This was to be interpreted as encouragement of political sincerity and of voluntary readiness to serve the State. There was no emphasis placed on the military aspect. Stress was laid on the ability of the individual to defend himself in all situations.

Certain superficial characteristics of the SA might suggest a military character such as the division into regiments, companies and platoons already described. There were also special units like the Marines, engineers, airmen and the SA Riding Corps. These units gave members an opportunity for technical training. Military bands were used primarily to improve the smartness of the formations. Drill regulations were taught so as to present a good appearance on parades.

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Training in the signal units was undertaken only to improve communications. There was also an SA reserve with the object of giving an opportunity to older men who had retired from active duty to maintain contact with the organization. Witnesses repeatedly denied that the training schools of the SA had any military character whatsoever. Their program included instruction in propaganda, geography and topics of the day. There were also schools for Sturm (company) Leaders. These schools were merely discussion groups. Articles mentioned in Document 3050 PS referring to shooting exercises, anti-aircraft gunnery, gas warfare, details of various weapons and battle order of the German Army were merely reprinted as "items of interest". Witness considered on the other hand that articles on map reading and open air exercise were within the framework of the SA training. BOCK explained an article in 1938 giving a picture of SA men marching in military formation carrying carbines as a portrait of members on their way to a rifle meeting. He said that HITLER had authorized certain pre-military exercises in 1939 which were scheduled to take effect in October of that year. They were, however, cancelled. In cross-examination he could not explain why the Reich Ministery of the Interior was unable to prevent unauthorized newspaper articles in 1934 describing military training for the SA. He considered that the SA only engaged in sport and the members did their military training as conscripts within the framework of the Army. He was sure that if any military training was carried out between January 1939 and May 10, 1940, he would have known about it since he was inspector of training at that time. Further cross-examined on Article PS 2820 regarding the right of a superior to use a weapon in the event of "mutiny" he was asked whether it was probable that any civil organization would have such regulations. His reply was that any organization which wished to

maintain discipline would do so. In re-examination he said that he thought that these regulations might have been issued by HOEHN in anticipation of a successful revolt in 1934 when a so-called "people's militia" was to be formed.

The Organization Book - Training.

JUETTNER was also strongly cross-examined by the prosecution with regard to alleged military training of the SA. (See page 363 of the transcript). He was asked whether he considered the reference to the organization book for 1938, US 2354, US 43, to the throwing of hand grenades could be considered sporting. He replied somewhat evasively that the organization book was not authentic and it was only a draft of a "visionary dream". It was not, however, a "visionary dream" of the SA that they should practice throwing hand grenades. The discussion then became confused with club throwing and it is not clear that this witness admitted that hand grenades were ever actually thrown or not, or whether regulations in the organization book were ever carried out. He said that the firing of small bore weapons was non-military and was carried out in many clubs in Germany.

As to the so-called "ideological training" of the SA, see Part II, under Propaganda.

(5) The Stahlhelm.

In 1933 the Stahlhelm organization had approximately 1,500,000 members together with a youth organization of about 500,000 young men under sixteen years of age. The membership was divided into four groups. The Scharnhorst for members up to 16 years of age, the Young Stahlhelm, who were from 16 to 22 years of age, the Wehrstahlhelm or sport formation, who were between 22 and 34, and the Kern Stahlhelm was composed of members over 34 years old.

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Objectives of the Stahlhelm

The principles of the Stahlhelm were to build a strong Germany and encourage international relations. It was designed to increase comradship among veterans of the first World War who as a result of their recollections of its horrors were determined not to participate in another. They considered that the Versailles Treaty and other problems could be solved by peaceful means. To this end they established contacts with French, English and Russian Associations.

The Stahlhelm had no military activities. Its members received training in athletics. Some of them were Jews.

By a speech on 27 April 1933, on the radio, SELDTE, who had become dictator of the Stahlhelm in violation of their constitution, announced that the Stahlhelm was now part of the SA. He dismissed his second in command DUESTERBUIG, who opposed this transfer. The transfer of the Scharnhorst was accomplsihed by decrees from HITLER. As a result the whole organization was put under the Command of the supreme SA leader, including the youth and sport formations. Half a million members of the Wehrstahlhelm were transferred into the SA and approximately 442,000 members of the Kernstahlhelm were transferred to the SA reserve. About one-half million Stahlhelm, who were 45 years of age, were not transferred. On 25 January 1935, the SA reserve was transferred into the General SA. The Scharnhorst organization was transferred into the HITLER Youth on 21 June 1933. The remnant of the Stahlhelm continued to exist until 1935 when they were dissolved by decree of HITLER. These were the members over 45 previously described and they were never transferred to the SA.

In general the members did not keep their ranks but received lower grades than members of the SA. Members of the Stahlhelm claimed that they were strongly opposed to this move with very few exceptions. They were, however, powerless to do

anything against this order. After their assimilation many of them remained in secret opposition to the Party.

The Stahlhelm members did not want to be involved in politics. They merely desired to continue the comradeship built up during the first world war. (See evidence of Theo GNUSS).

GNUSS was the "liquidator" of the Stahlhelm, which process was finally completed in 1939. He said that the spirit of the old Stahlhelm was kept alive by this winding up organization and antagonism to the S.A. survived up until the first days of the war.

Conditions of Membership

Von WALDENFELS claimed that some Stahlhelm units put themselves at the disposal of the Army at the time of the Roehm Putsch in order to carry out an attack against the S.A. This proved to be unnecessary but resentment against the S.A. continued. There were many convictions of Stahlhelm members between 1933 and 1935. Some of them were men of the Stahlhelm who attempted to resign from the S.A. Evidence was given that it was impossible to resign from the S.A. unless a person suffered from some severe physical incapacity. Insistence on resignation in the absence of such conditions could have resulted in dishonorable discharge and observation by the police. In February 1935von WALDENFELS stated that he tried to resign and was immediately put under observation. His telephone calls were checked and his mail opened, to the alarm of his family and friends. It was admitted on cross-examination that there were a number of Stahlhelm members who joined the S.A. voluntarily. These were generally politically ambitious persons who constituted only a small minority of the organization.

It was admitted that after the Roehm Putsch the S.A. still adhered to an anti-Semitic policy but it was pointed out that the S.A. organization gradually diminished in importance.

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In general old Stahlhelm members were opposed to a policy of persecution and to militarism.

(6) The Reiterkorps and Subsidiary Organizations.

The NS Reiterkorps originated in the transfer of urban and rural riding associations into the S.A. This occurred in 1933. It was the intention that all athletic associations should be attached to the Party. It was guaranteed that these associations should retain their autonomy, and according to the witnesses for this organization, this assurance was kept. Riding and other sport associations were threatened with confiscation of their property if they refused.

The Reitersturms of the SA Reiterkorps were composed of from 20 to 100 members. In each district they were also formed into Standarten.

The riding groups together with the National Socialist Motorists group and the National Socialists Air Corps made up the three large athletic associations of the Party.

The Reiter Korps continually attempted to free itself from the SA but was unable to do so owing to the lack of influence of its leader LITZMANN. Contact between the Reiter Korps and the SA was not close and for most purposes the former remained entirely independent. Eighty per cent of its members were farmers. At the time of its transfer to the SA the total membership was 100,000 members. At a later date this was increased to 200,000.

The Training was not Military

Von der BORCH, who was a Provincial Leader of the Reiter Korps-claimed that they never engaged in political activities or propaganda. They were only concerned with riding and driving horses. Militarism was not promoted and it is incorrect to say that men were trained as replacements in cavalry units of the Wehrmacht. No cavalry training took place of any kind. On

cross-examination he denied that 90 per cent of the members owned their own horses. He said that most of the members could only ride on Sundays since their horses were used for plowing during the week. The allegation that a riding certificate in the SA Reiter Korps would give the owner preference in the Wehrmacht for his assignment to a mounted unit never occurred in practice.

In connection with the question of military training in the Reiter Korps, Document D 194 and Document D 193, "Articles appearing in der SA Fuehrer" in 1936, were introduced by the prosecution. These articles discuss the uses of infantry and cavalry in modern warfare, having previously described the SA riding certificate. The witness WILLE also claimed that this riding certificate had no military significance. He denied that the Reiter Korps took part in any military maneuvers. He thought that the articles had probably been written to counteract the loss of public interest in horses as it was generally known that HITLER was opposed to the use of horses in the Army. (Similar evidence on this latter point is to be found in a number of affidavits on behalf of the Reiter Korps submitted to the Commission).

Note: JUETTNER said that if in fact any kind of pressure was exerted on the riding corps to join the SA, he did not know of it.

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II. Defense of the SA against the Charge of Committing the Crimes Alleged by the Prosecution.

(1) Denial that the SA was used as a terror Organization by the Party.

JUETTNER strongly denied that the SA were used to strike terror into the population. The contention of the Defense is that far from terrorizing opposition groups, it was organized to defend the Party against the attacks of others. Until 1933 the SA remained on the defensive against political enemies. Afterwards it adopted a more conciliatory attitude and numerous previously hostile groups were "incorporated" into the Party. ROEHM used to say that it was the task of the SA to increase confidence among the German people.

Suppression of the Trade Unions

JUETTNER was shown by Defense Counsel a Document No. PS 392 from which he quoted a passage to the effect that the SA or SS were to be used for the occupation of the buildings of trade unions and for taking into protective custody of officials. Witness thought that this referred to the fact that a revolt against the Nazis was expected in March 1933. The main points of resistance to National Socialism in industrial areas were to be found in the headquarters of the trade unions. The police were not considered reliable to suppress the trade unions, therefore, the SA and the SS were ordered to occupy their buildings. He denied that the orders for the dissolution of the trade unions came from ROEHM or the SA Leadership. The motive for their suppression was that they were a "class organization". Ley wished to create the DAF (German Labor Front) which was to be an association of employers and workers on an equal basis, and he, therefore, desired to dissolve the trade unions. He asserted that the impression was created that the campaign against the trade unions was carried out entirely by the SA because both

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the SA and the SS were the same brown uniforms, the SS being only distinguished by a black ribbon on the sleeve.

It was quite untrue that the SA acquired any financial advantage from the confiscation of trade union property although they actually carried out the confiscations. The funds of the trade unions were handed over to the treasury.

Attitude of ROEHM

ROEHM took the opposite view to LEY with regard to the suppression of the trade unions. ROEHM wanted to win them over and as a result a serious difference of opinion arose. (The relevancy of this conflict between ROEHM and LEY was disputed by the Prosecution. The Defense replied that it was their duty to show that the SA was not used as a tool of the conspirators in the struggle for power during the years 1921 to 1933. They further said that the Prosecution were trying to show that if the Chief of Staff of the SA was a representative of the Fuehrer this meant that the SA should be considered as a "common unit" with the Party. Counsel's point was that the conflicts described and also the Roehm Putsch involved a complete break in the political significance of the SA. Since the SA, as he alleged, was practically eliminated in the year 1934, it could not have continued to be a tool of the conspiracy nor could it be charged with any responsibility for subsequent events.)

JUETTNER was further examined on the social aims of ROEHM, apparently with a view to showing that it was not the intention of the leadership of the SA at the time to get rid of the trade unions who might, at a later date, have been an element which opposed aggressive warfare. The whole examination of JUETTNER on this subject is, however, extremely confused. JUETTNER said that in 1934 ROEHM invited trade union representatives to a conference but the program of negotiation was cut short by his death on June 30, 1934, and his influence disappeared.

JUETTNER also said that ROEHM was a man whose principles on the church and on racial questions, might have, if he had lived, influenced the Party against committing many of the excesses of later years.

(2) The dissemination of National Socialist Propaganda.

"Der SA Mann"

Most of the evidence on this subject refers to a discussion as to the meaning of various pages in the paper "Der SA Mann". Friedrich KLEIN said that he was Chief of the Publication Office of the SA. The purpose of his evidence was to show that the SA newspaper was neither an official or a semi-official publication of the SA. Articles in this newspaper were not of any interest to the SA Leadership who did not exert influence on them. The editors of the "SA Mann", however, thought that they would be popular among the rank and file. Between 1935 and 1939, witness as Chief of the Publication Office, repeatedly tried to gain control of the "SA Mann" and he was supported in these attempts by the SA Leadership. These attempts failed owing to the opposition of the editors and publishers. Nevertheless, in cross-examination witness admitted that the "SA Mann" was published by the official publishers of the Party and underneath its title it had the words "The Official Newspaper of the SA". His only explanation was that this was not so in reality. The paper was eventually suppressed by HITLER.

JUETTNER said that there was no compulsion on members of the Party to buy the "SA Mann". As far as he could remember about 200,000 copies were printed for a membership of about 500,000. Later on another unofficial paper was published, the "SA Fuehrer" or SA Leader, and another called the "Kampfschriften", but these were suppressed after a few months. The contents did not please the SA Leadership. During the war the paper "Die SA"

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was published. This was chiefly to maintain contact between the men at home and those serving in the field.

Discussing the suppression of the "SA Mann", JUETTNER said that the editor was dismissed and it was intended, but never actually carried out, that he should be removed from the SA.

Anti-Semitic and other articles were not sanctioned by the SA Leaders.

The Defense contended that the articles referred to by the Prosecution alleged to contain propaganda referred to in the indictment, were never published with the sanction or agreement of the supreme command of the SA. Most of the articles were not sponsored by the SA Leaders because they were not in accordance with the Party program. For example, the SA Leadership were not in favor of the extermination of the Jews, although they were in favor of the prevention of the interference of Jews in the cultural and economic life of Germany. The articles, therefore, in the "SA Mann" published between February and July 1935, which are alleged to be violently anti-Semitic in character, did not represent the views or policy of the SA leaders. The article referred to in Document TS 3050 was, according to the witness, taken from German and foreign newspapers and was accurate reporting. One article called "Czech Terror and German need in Czechoslovakia" simply stated Germany's position with respect to the Sudetenland. He reiterated that these articles were not published at the request of the SA Leadership. He gave the same explanation with regard to articles that referred to the Versailles Treaty, the occupation of the Rhineland and the repatriations question.

BOCK said that the article entitled "We were the first" (Document 3050 TS) referring to the march into Austria merely concerned the experiences of five members of the editorial staff of the "SA Mann" who crossed the border with the German troops at Mittenwald. His explanation of an article from the "SA Mann"

of July 3, 1937, entitled "The War of Tomorrow" was that this referred to the German struggle for the security of the Reich and not to any aggressive tactics. Document 3050 PS with respect to an article of February 10, 1934, was denied to be a military article. This included such subjects as, "Flame Throwers", "Sport as Military Training", and slogans like, "Whoever Fights us we will beat him down" and "The SA Man at the Heavy Machine Gun". All of these were declared to be of non-military interest, to refer either to election propaganda or to reminiscences of the last war. JUETTNER gave similar explanations.

SA Propaganda

Talking of propaganda in general, JUETTNER said that there were two types of propaganda speeches that should be distinguished. Some speakers were employed to announce the aims of the Party program, and as a result it would be unfair to speak of any specifically "SA propaganda". The SA, however, carried out propaganda to recruit members for its organizations and also to strengthen the ideas of community and comradeship. This propaganda had a patriotic basis. It referred to Germany's loss of the war and the Versailles Treaty but recommended peaceful negotiation. He denied that Party representatives or SA Leaders spoke against the Church. Nor did they attack the Jews. He admitted, however, that in the "SA Mann" there were numerous anti-Semitic articles.

(3) The persecution of the Jews.

Questioned concerning the policy of the SA towards the Jews, JUETTNER said that the SA were against the emigration of Jews from the East into German territory. This was the limit of their anti-Semitism and they were strongly opposed to the use of brute force in dealing with the problem. JUETTNER claimed that the same attitude with regard to the emigration

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of Jews from the East was adopted by Jewish associations in Germany. He denied that the leadership of the SA made speeches inciting excesses against the Jews. He agreed that a number of members of the SA disobeyed orders and committed crimes against people of Jewish faith. Whenever the leaders of the SA heard of such crimes they always took steps to stop them. He gave various examples, particularly in reference to the events of November 9, 1938. He said that LUTZE was strongly opposed to violence in this connection. On page 332 of the transcript he described the occasions on which the SA might be called upon to act on behalf of the Political Leaders. Normally such requests were limited to propaganda marches or charitable ppurposes. The actions they were asked to carry our were "legal". He considered that the orders to take part in the demonstrations of November 1938 were illegal. As soon as LUTZE heard of them he immediately forbade members of the SA to take part. He said there was a great deal of friction between LUTZE and BORMANN on this matter and also on the religious question.

Blowing up of Synagogues by the 50th SA Brigade

In cross-examination JUETTNER was asked about orders given to the 50th SA Brigade on 10 November 1938. (See Document PS 1721, US 425). This order included the instruction: "On the order of the Gruppenfuehrer all Jewish Synagogues within the 50th Brigade area are to be blown up or set on fire immediately". (See page 375). JUETTNER repeated that it was possible for the Party Leadership to give orders to the SA in certain cases. The Prosecution, however, pointed out it appeared that the order had come from the SA Gruppe, a higher formation than the Brigade. Asked from whom the Gruppe would have received such orders he said either from the Chief of Staff of the SA, the Storm SA Command, or the Gauleiter. JUETTNER concluded by saying that if it were true that the SA Brigade in question had carried

out this action, he was of the opinion that they ought to be punished, but the whole organization should not be accused. He thought it was impossible that the SA Gruppenfuehrer or Obergruppenfuehrer could have given such orders. The order was in complete contradiction to the policy of the SA. Asked concerning an order signed by himself regarding the handing-in of Church property to the Gestapo, he said this was an order issued by HESS. All Party formations, including the SA, received this order.

In further cross-examination by the French Prosecution, JUETTNER denied having heard that the 50th SA Brigade had in fact destroyed forty or fifty synagogues. He protested that large majority of SA men were against these incidents.

Discipline of the SA.

A Dr. Kurt WOLF, an attorney who frequently defended SA men before the disciplinary courts, denied that terror was a principle of the SA. Referred to Document PS 603, US 332, in cross examination, he denied that he had heard of any Jews being killed on November 10, 1938. He insisted in his denial eventhough it was shown that the report in question came from the supreme party court. After some clarification of the position by the Prosecution, he agreed that SA men had been tried for killing Jews as young as 16 years old and that this gave him a feeling of horror. A long list of Jews who had been murdered during the demonstrations was then given by the Prosecution. After explaining further why evidence was being given that November 10, 1938 was the only occasion on which the SA committed violence, he said that in an organizations of several million people a number of "black sheep were to be expected".

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Alleged Baptism of Jews in SA Uniform.

Theophil BURGSTAHLER a clergyman claimed to have baptized Jews in Berlin who were members of the SA. Baptisms were performed in public and the Jews and SA men who attended were wearing the SA uniform. Cross-examination elicited the fact, however, that the policy of the SA was in principle anti-Semitic and that the SS had commenced active persecution of the Jews in 1934.

Articles in the "SA Mann"

Further questioning of JUETTNER on the subject of SA publication of anti-Semitic propaganda elicited the statement that the Stuermer was forbidden in SA groups and that many of its members "showed repugnance to its contents".

In cross-examination the Prosecution quoted Document PS 3050, US 414, which included articles from the "SA Mann" of 1935. The titles of these articles were, "Finish up with the Jew", "The Jewish World Destroyer", "Jews are not Wanted here". Asked whether these articles sounded very friendly towards the Jews, JUETTNER said that he wished to repeat that the "SA Mann" was a paper whose ideas were inconsistent with the SA Leadership and majority of the SA. Asked why the "SA Mann" was closed down, he said that HITLER personally suppressed it because it was publishing "immoral and indecent articles". He had no satisfactory explanation why the SA Leadership itself had not been able to close it down. Asked whether it had not published anti-Semitic articles weekly from 1935 to 1939, he said he could not say definitely because he did not like the paper and did not read it.

(4) Aggressive war and the encouragement of militarism.

With the outbreak of war witnesses claimed that the SA like all patriotic Germans tried to serve their country. Sixty per cent of the SA men joined the Army and many SA units

were dissolved. The Chief of Staff of the SA and all the higher leaders were opposed to the war and were described as "defeatists" by BORMANN. Asked whether it was true that BLAUCHITSCH and LUTZE had concluded an agreement whereby the SA should help the Army if they came into conflict with HITLER and the SS, witness said that he had only heard this at a later date. After the downfall of ROEHM, the SA had no influence whatever on foreign policy and it was not used with any aggressive intentions. In fact, it did everything to further international understanding throughout the veterans associations.

Veterans Associations

Hans OBERLINDOBER, who was Obergruppenfuehrer of the Veterans Association, said that he took part in numerous international meetings of veterans of the last war. Those who had fought in the last war wished to continue the comradeship of those times and to avoid a similar disaster. The SA was of the opinion that the natural hostility between France and Germany could be eliminated by meetings of this kind. He enumerated the representatives of various countries including a delegation from the British Legion who had visited Germany. A visit of a thousand German war veterans sponsored by the SA to Britain took place in the Autumn of 1938. The outbreak of war was a great disappointment to the organization which had endeavored to create friendly cooperation among the nations. Cross-examined by the French Prosecution, this witness admitted having met de Brinon and Abetz when he was in Paris. He said that his organization had some contact with the propaganda industry but that he was merely instructed to further "personal friendship among the delegates".

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On page 327 of the transcript JUETTNER was examined on the question of the assistance given to the Sudetendeutsches Freikorps by the S.A. He said this assistance was limited to support of the free group by the S.A. border control units. They also assisted refugees.

In cross-examination on the military aspect of the S.A., JUETTNER as previously described claimed that any appearance of military training was due to the intention of ROEHM to create "a defensive militia". Asked whether the word "militia" did not imply something military, he said that in Germany there was a distinction between a military formation and a militia. It was the intention of ROEHM to create a militia on the pattern of those established in the western countries. This questioning arose from a reference to Document D 444, US 448, a letter written on behalf of the Chief of Staff of the S.A. asking that the greatest caution be exercised in the press with regard to any publicity given to S.A. activities. This answer regarding a defensive militia was given to all questions by the Prosecution as to why the S.A. should have signal and motorized companies. Asked why according to Document PS 2823, US 429, it was necessary to appoint one Colonel Rude of the Reichswehr as training officer to the S.A., he said that this had something to do with the training of S.A. for border control. The training for this purpose was only in accordance with the S.A. athletic "badge" or charter. If the Reich Ministery of Defence used the expression "military training" in reference to the activities of Colonel Rude this was incorrect. He was further cross-examined on articles in the "SA Mann" of alleged military nature. These have already been referred to above.

(5) Persecution of the Church and interference in the freedom of worship.

It appears that BORMANN was in constant conflict with the leaders of the SA. It is claimed that from 1934 he tried to destroy the influence of the SA and seems to a certain extent to have succeeded. On page 231 of the transcript JUETTNER describes how BORMANN proposed to LUTZE that SA men should leave the church. LUTZE refused. ROEHM, like the witness, was a churchman and during his time there was no conflict between the SA and the church. The SA differed strongly from the Party's views on marriage and racial matters, particularly those of the SS. They tried to respect the church in every way and SA flags were consecrated in churches. The SA leadership ordered that units should not pass by churches marching and singing while divine service was taking place.

The Catholic Church

Dr. DAVID, who was Vicar of the Catholic Diocese of Koloene, claimed that various Catholic institutions, including schools, attempted to protect their religious interests by linking themselves to the SA. Catholic youth organizations were determined to influence young people in the SA towards Christian principles. They tried to prevent the recruitment of the German people and their aim was to say "Seize the swastika and transform it into a corss". Witness was of the opinion that the SA rules of manly behavior were quite compatible with Christian philosophy and were approved by the Bishops. Readiness to sacrifice oneself in a just war for the love of the Fatherland was considered by the Church to be a Christian virtue. In the Catholic areas of western Germany the large majority of SA men did not indulge in any activities against the church. Catholic SA men did not fall off in their attendance although when the Party began to persecute the church in earnst SA men were forbidden to attend in uniform.

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Dr. DAVID was of the opinion that the higher authorities in the SA did not show the same hostility towards the Catholic Church as individual party leaders like BORMANN, STREICHER, ROSENBERG and GOEBBELS, who were conspicuous enemies of Christianity. In cross-examination he admitted that there were occasional instances in Bavaria where the SA was used to attack the church. (Document 1507 PS, which describes interruption of church services in Freising). His attention was also called to the fact that according to the organization book of the Party the Political Leaders were entitled to call upon the SA for execution of political measures (including anti-church activities). He said he knew nothing about this.

The Evangelical Church Consistorial Council

Dr. Einhardt RATHKE, who was a member of the Evangelical Church, said that there were a number of ministers of the church who belonged to the SA. At first, SA men attended church in their formations and received the sacrament together. At the end of 1937, there was a movement in the Party against religion in general. This witness admitted that the "SA Mann" published a number of articles which made popular the idea of "Gottglaubigkeit". This constituted more belief in God but excluded outward forms of worship. The idea had no influence on the majority of the SA. He denied that the Evangelical Council had ever asked members of the SA to resign their membership of the Church.

(6) Concentration camps and other crimes.

It was not denied by the witness that in the early days of the Nazi regime, that is to say in 1934, the SA were used to guard concentration camps. On page 194 of the transcript JUETTNER tried to explain the position by saying that the SA men were not acting in their capacity as members of that organization at the time and were not under the SA Leadership.

After the concentration camps were turned over to the Reichsfuehrer SS, they ceased to have any connection with them. JUETTNER declared that he had made efforts to get persons released from concentration camps but this evidence was objected to as irrelevant. (See page 195).

Questioned on page 328 as to the use of unemployed SA men in Poland and in special units, JUETTNER said that these people were merely racial Germans who had been accepted as applicants to the SA but were not to be transferred there until after the war. LUTZE prohibited in writing the transfer of any SA personnel to the SD.

Unauthorized Concentration Camps

With regard to the so-called "wild" or unauthorized concentration camp (See page 331) JUETTNER says that it is incorrect to describe them as illegal or unauthorized. There were a number of concentration camps in 1934 administered and guarded by the SA. They were instituted, however, by police presidents who were most of them also SA leaders. In creating such camps, the police presidents were acting in the former capacity and not as SA leaders.

The witness HABENICHT claimed to have been appointed an SA Brigade Leader in Wuppertal in December 1933, and President of Police in March 1934, in place of one Willi Veller, who had been relieved of these duties because of his failure to take action in regard to outrages committed in a concentration camp at Wuppertal (Kaemna), a suburb of that town. It was considered that the conduct of Veller as President of the Police and SA Leader had harmed the reputation of the SA although it was claimed that he set up the camp only in his capacity as President of Police.

The SA maintained an independent court where it punished its leaders for violations of the regulations regardless of any action taken in the State courts. In addition to

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this evidence, HABENICHT was examined on the law by which members of the SA might be used as "assistant policemen". This was based on the German Police Law of 1850 whereby any "decent German" could be used to assist the police. The SA could only function in this capacity when the real police were present and orders were received from the Kreis Administration.

Werner SCHAEFER was Commandant of concentration camp at Oranienburg from March 1933 to March 1934. This camp was built in March 1933 by order of SA Standarte 208. Instructions regarding its administration were received from the SA group who in turn received their orders from the Prussian Minister of the Interior. Specially selected SA men who were made "assistant policemen" for the purpose guarded the camp. They were supervised by the State police and under their jurisdiction. This situation continued from March 1933 until the Autumn of 1934, when the SS took over the camp. He declared that ill treatment of persons was strictly forbidden and that there were no executions while the camp was guarded by the SA. Large numbers of foreigners and prominent persons inspected the camp and also members of the Press. Visitors had an opportunity to talk freely to the prisoners.

A full account of conditions in Oranienburg during this period together with details of the cross-examination of this witness is to be found on pages 2539 to 2560 of the transcript.

A full summary of SCHAEFER'S evidence has also been distributed and it is respectfully suggested that together with the transcript it should be read in its entirety.

Airs Shearer.

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Final Report

Witnesses

before

Commission

(by Col. Neave)

H. Final Report Witnesses before Commission (by Col. Neave)

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